



# JORNAL da REPÚBLICA

§ 3.75

OFFICIAL PUBLICATION OF THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE

## Special Issue

### SUMMARY

#### NATIONAL PARLIAMENT:

Law No. 9/2025 of 22 December

Code of Recovery of Companies and Insolvency .....

It is therefore essential to establish a regime that strengthens the guarantees available to businesses and investors, both domestic and foreign, allowing insolvent companies to exit the market in an orderly manner and creating conditions for the recovery of companies in crisis, where such recovery proves viable. Under the legal framework established by this law, recovery should constitute the preferred option.

**LAW No. 9/2025**

**of 22 December**

The Recovery and Insolvency Code hereby approved focuses on revitalising the business sector through the restructuring or elimination of non-viable companies that tend to undermine the soundness of the economy, offering two alternative outcomes: (1) recovery proceedings aimed at the financial restructuring of the debtor experiencing difficulty in meeting its obligations but whose business remains viable; or (2) liquidation proceedings involving the universal liquidation of the debtor's estate of companies that are not economically viable.

#### BUSINESS RECOVERY AND INSOLVENCY CODE

A Recovery and Insolvency Code, as an essential element for the growth of the national economic structure and investment in the country, has long been absent.

The IX Constitutional Government, aware of the need to fulfil the commitments undertaken in the context of the accession process to the World Trade Organization (WTO), particularly with regard to the adoption of new legislation, submitted to the National Parliament a draft law establishing a system of recovery and insolvency for traders, intended to be modern and suited to the objectives of transforming the foundations of the national economy, thereby strengthening its resilience and enabling the country to realise its growth potential and to become a modern and developed economy in the international context.

Timor-Leste's accession to the WTO, as well as the country's integration into the Association of Southeast Asian Nations (ASEAN), makes the creation of a legal framework in this area essential, thereby responding to urgent legislative needs and ensuring compliance with the obligations undertaken by the country at the international level.

The essential features of the insolvency regime adopted in this law include: (a) the primacy of recovery over insolvency, meaning that the system prioritises the recovery of companies in difficulty and that insolvency and liquidation are only declared when recovery proves unfeasible; (b) the reduction of judicial intervention in the proceedings, a principle aimed at ensuring the least possible involvement of the court, which will only intervene when necessary to declare the debtor insolvent, to qualify the insolvency, to approve the recovery plan, to decide on the termination and resolution of the debtor's business and to grant discharge of the remaining liabilities. However, the possibility of appeal is still enshrined when issues related to the fundamental rights of the parties are at stake; (c) given the limited role of the court, the establishment of an administrative body, designated as the Recovery and Insolvency Office (BRI), before which all recovery and insolvency proceedings are conducted; (d) procedural celerity and simplification of procedures, meaning that the proceedings are designed to be simple, using forms made available by the BRI, and to be concluded within a short period estimated at six months, excluding any incidental proceedings that may arise; (e) the principle of equal treatment of creditors ("*par conditio creditorum*"), meaning that creditors of the same category or class are treated equally; (f) the principle of inquisitorial and collaborative proceedings, whereby, as the insolvency proceedings are not adversarial in nature, but rather collective proceedings that transcend the individual interests of the debtor and the creditors, both the BRI and the court are granted broad powers of action, allowing them to take into consideration facts not alleged by the parties, while the debtor is subject to a specific duty of

cooperation;(g) the principle of a *fresh start*, based on the widely accepted understanding that a natural person declared insolvent should not be marginalised or excluded from the system where the situation has not been caused by that person's fault, and should therefore be granted a second opportunity and a new beginning.

Approved on 2 December 2025.

The President of the National Parliament,

Finally, it should be noted that the approved Code also addresses transnational or cross-border insolvency, in a title dedicated to foreign proceedings.

**Maria Fernanda Lay**

Thus,

Promulgated on 19 December 2025

The National Parliament decrees, pursuant to Article 95(1) of the Constitution of the Republic, to have the force of law, the following:

To be published.

The President of the Republic,

**José Ramos-Horta**

**Article 1**

**Approval of the Business Recovery and Insolvency Code**

The Code of Business Recovery and Insolvency, published in the annex to this law, of which it forms an integral part, is hereby approved.

**Article 2**

**Summary, glossary, and index of matters of the Business Recovery and Insolvency Code**

In compliance with the provisions of Article 24(9) of National Parliament Resolution No. 6/2025 of 28 March on the drafting of laws and other legal acts of the National Parliament, the following are included in the Business Recovery and Insolvency Code, without legal value:

- a) An annex with a summary of the purpose and main objectives and characteristics of the Business Recovery and Insolvency Code;
- b) An annex containing a short glossary explaining the meaning of the most significant specific terms and expressions used;
- c) An annex with a table of contents containing the systematic units into which it is divided and the articles that comprise them, with their respective headings.

**Article 3**

**Entry into force**

This law shall enter into force 180 days after its publication, provided that the legal instruments on the organisation and functioning of the Recovery and Insolvency Office, on the appointment and status of the Recovery and Insolvency Administrator and on the organised business accounting regime are in force.

**ANNEX**

(referred to in Article 1)

**Business Recovery and Insolvency Code Title I  
Introductory provisions**

**Chapter I  
General provisions**

**Article 1**

**Definitions and abbreviations**

Without prejudice to others established in this Code for the purposes of its application, the terms, expressions and acronyms mentioned below have the following meanings:

- a) Administrator:
  - i) Where the debtor is not a natural person, the person responsible for the administration of the entity or assets in question, namely the head of the corporate body competent for that purpose;
  - ii) Where the debtor is a natural person, their legal representative and agent with general powers of administration.
- b) ARI, the recovery and insolvency administrator;
- c) BCTL, the Central Bank of Timor-Leste;

- d) BRI, the Recovery and Insolvency Office;
- e) “Debtor” means any natural or legal person who may be subject to the recovery and insolvency proceedings, in accordance with Article 3.
- f) “Company” means any organisation of capital and labour established for the purpose of carrying out an economic activity;
- g) NECRE, the negotiation phase with creditors;
- h) PRI, the recovery and insolvency proceedings;
- i) “Legal representative” means the person who, under the terms of the law, is personally and unlimitedly liable for all of the insolvent party’s debts, even if only on a subsidiary basis.

### **Article 2**

#### **Purpose of the recovery and insolvency proceedings**

1. The purpose of the PRI is to satisfy creditors in accordance with the recovery or liquidation plans provided for in this Code.
2. The recovery and insolvency proceedings shall primarily aim at the recovery of the debtor's business or, where this is not possible, the liquidation of the debtor’s estate and the distribution of the proceeds to the creditors.

### **Article 3**

#### **Subjective scope of application of the law**

1. The following may be subject to PRI:
  - a) Legal entities governed by private law that own companies, even if they are exclusively publicly owned;
  - b) Natural persons who own companies, even if they are not registered as such under the applicable registration rules;
  - c) Unclaimed inheritance, when the author of the succession is a natural person who owns a company;
  - d) Permanent representations of foreign companies, provided that they are part of a cross-border insolvency regime.
2. The following are not subject to the PRI provided for in this Code:
  - a) Legal persons governed by public law, including public companies subject to public law;
  - b) Insurance companies, credit institutions, financial companies, investment companies providing services involving the holding of third-party funds or securities, collective investment undertakings and all those under the supervision of the Central Bank of Timor-Leste;

- c) Natural persons who do not own companies.

3. Without prejudice to the provisions of Article 221, the PRI regime provided for in this Code applies to debtors whose centre of main interests is located in national territory, understood as the place where the debtor habitually and in a manner recognisable by third parties manages their interests.

### **Article 4 Insolvency**

1. A debtor who is unable to meet their due obligations is considered to be in a state of insolvency.
2. Legal persons and autonomous assets for whose debts no natural person is personally and unlimitedly liable, either directly or indirectly, are also considered insolvent when their liabilities clearly exceed their assets, as assessed in accordance with the applicable accounting standards, unless, given the circumstances and from a going concern perspective, their recovery is highly probable.
3. In the assessment to be made under the terms of the previous paragraph, debts that are only to be paid from distributable funds or after the rights of the debtor's other creditors have been satisfied or safeguarded shall not be taken into account.
4. In a situation of imminent insolvency, only the debtor may request the opening of recovery and insolvency proceedings.
5. A debtor is in a situation of imminent insolvency if they foresee that they will be unable to meet their obligations regularly and on time in the next 12 months, as well as if they face serious difficulties in meeting their obligations on time, namely due to a lack of liquidity or an inability to obtain credit.

### **Article 5 Recovery and Insolvency Office**

The PRI shall be initiated and conducted before the BRI.

### **Article 6 Date of the declaration of commencement of proceedings**

1. Where accuracy may be relevant, references in this Code to the date of the declaration opening the proceedings shall be interpreted as referring to the day on which the declaration is issued by the BRI.
2. All time limits in this Code that end on the start date of the PRI also cover the period between that date and the date of the declaration of the opening of proceedings.

3. If the declaration of commencement of proceedings is made in proceedings that should have been suspended due to the pending nature of other proceedings previously brought against the same debtor, the date of commencement of the latter proceedings shall be relevant for the purposes of the time limits referred to in the previous paragraph.

#### **Article 7**

##### **Suspension of proceedings and prejudiciality**

1. PRI proceedings may not be suspended, except in the cases expressly provided for in this Code.
2. The BRI or, where applicable, the court shall order the suspension of proceedings if PRI proceedings are brought against the same debtor by another applicant whose initial application was first filed with the BRI.
3. The suspension shall cease if the application to initiate proceedings in the first case is dismissed.
4. Any appeal against the decision to dismiss shall not prevent the proceedings instituted subsequently from continuing.

#### **Article 8. Death of the debtor**

1. In the event of the debtor's death, the proceedings:
  - a) Shall proceed against the estate opened upon the death of the debtor, which shall remain undivided until the conclusion of the proceedings;
  - b) Shall be suspended for a non-extendable period of five days from the date of death.
2. Actions taken during the period of suspension referred to in subparagraph b) of the previous paragraph by persons who are not aware of or cannot be aware of the suspension may be subsequently confirmed or ratified by the interested parties by means of a simple communication to the proceedings in which they express their consent.

#### **Article 9**

##### **Principle of inquisitorial proceedings**

In the PRI, decisions by the BRI, as well as judicial decisions, may be based on facts that have not been alleged by the parties.

#### **Article 10**

##### **Principle of equality**

1. The PRI complies with the principle of equal treatment of creditors, without prejudice to differentiations justified by objective reasons or provided for in this Code or special legislation.

2. Less favourable treatment in relation to other creditors in the same situation is subject to the consent of the creditor concerned, which is deemed to be tacitly given in the event of a favourable vote.

3. Any agreement whereby ARI, the debtor or any other party grants advantages to a creditor not included in the recovery plan in return for certain behaviour within the scope of the PRI, particularly with regard to the exercise of voting rights, shall be null and void.

#### **Article 11**

##### **Notifications and publicity**

1. All acts which the law requires to be communicated in person shall be communicated to the respective recipients in writing, by means that allow proof of receipt.
2. The means referred to in the previous paragraph may be replaced by email in relation to parties who have previously communicated to the BRI their consent to the use of electronic means for the communication of acts and information.
3. Where personal service of process on entities subject to commercial registration is not possible at the address listed in the register, service shall be effected by publication on the BRI electronic portal.
4. Where personal service of process or notification of entities not subject to commercial registration is not possible, they shall be served or notified by publication in a national newspaper or, failing that, in at least one of the most widely read newspapers in the municipality where the debtor's business is located and also on the BRI's electronic portal.

#### **Article 12**

##### **Subsidiary application of the Code of Civil Procedure**

The PRI is governed by the Code of Civil Procedure in all matters that do not contradict the provisions of this Code.

#### **Chapter II**

##### **Jurisdiction**

#### **Section I**

##### **General provisions**

#### **Article 13**

##### **Competent court**

1. The Dili Court shall have jurisdiction over all jurisdictional matters relating to all recovery and insolvency proceedings.
2. The court shall only have jurisdiction in matters expressly provided for in this Code and where issues relating to the fundamental rights of the parties or public order are at stake.

3. The investigation and decision of all jurisdictional matters of the PRI shall always be the responsibility of a single judge. of Civil Procedure, and the provisions of Articles 791 and 792 of the same law shall apply, with the adaptations set out in the following paragraphs.

**Article 14**

**Urgent nature of the recovery and insolvency proceedings**

1. The PRI, including all its incidents, appendices and appeals, is urgent in nature and takes precedence over the ordinary service of the court.
2. The registration of judgments and orders handed down in the PRI shall be urgent.

**Section II**

**Common incidental proceeding**

**Article 15**

**Scope of common incidental proceeding**

1. All issues arising during the proceedings that must be decided by the court and for which this Code does not provide for special proceedings shall be resolved in accordance with the rules set out in this section.
2. The filing of the incidental proceeding shall not suspend the proceedings, without prejudice to the judge, either ex officio or at the request of the parties, determining the suspension of acts that may be affected by the decision rendered.
3. It is not permissible to raise an incidental proceeding concerning the performance of administrative acts or the challenge of such acts on grounds of convenience.

**Article 16**

**Parties to the incidental proceeding**

1. The incidental proceeding may be brought by anyone who is or may be affected by acts performed in the proceedings, namely by the BRI or the ARI.
2. The opposing parties in the incident are those against whom the application is directed and those who have opposing positions in relation to the application filed by the applicant.
3. Any person who has intervened in the proceedings may participate in the incident by assisting the party that requested it or the opposing party.

**Article 17**

**Procedure and judgment**

1. The incidental proceeding shall be conducted as a separate proceeding before the court.
2. The initial request for the incidental proceeding shall be submitted to the BRI within 10 days of the event that justifies it, constituting a special form of proceedings, pursuant to Article 790(i) of the Code

3. Upon receipt of the initial application, the BRI must immediately forward it to the court, together with any procedural documents it deems necessary for the decision.

4. If there are no grounds for preliminary dismissal, the judge admits the incident and orders the notification of the opposing parties, with a copy of the initial application, so that they may, if they wish, contest the request within 10 days.

5. The application for the incidental proceeding and the responses must be accompanied by all available evidence, and the parties are required to present the witnesses listed, whose number may not exceed the limits set forth in Article 256 of the Code of Civil Procedure.

6. All parties must clearly and precisely state the specific relief they are seeking and the decision they wish the court to render, under penalty of having their intervention in the incidental proceeding dismissed outright.

7. An appeal may always be lodged against a decision to dismiss the case outright.

8. A trial hearing shall only be held if the request has been contested, there is controversy over the alleged facts and this is relevant to the decision.

9. The hearing must be scheduled for one of the 10 days following the deadline for the response, unless the court considers that there are evidentiary measures necessary for the proper decision of the case that must be carried out in advance, which must be completed within a period not exceeding 20 days.

10. Once the hearing has been held, or if it does not take place, once the deadline for the response has passed, the court shall issue its ruling, which shall be notified to the parties and to the BRI within 10 days.

**Section III**

**Special incidental proceedings**

**Article 18**

**Remission**

1. The following special incidental proceedings are subject to specific regulation, as provided for in Title VIII:

- a) Incident of qualification of the situation of insolvency;
- b) Incident of discharge of remaining liabilities.

2. In the absence of special regulations, the rules relating to common incidental proceedings shall apply to special incidental proceedings.

**Section IV**

**Appeals**

**Article 19**

**Appeals**

1. Decisions of the court of first instance may only be appealed in the cases expressly provided for in this Code.
2. Appeals shall be lodged immediately, separately and with devolutive effect, except in cases expressly provided for in this Code.
3. The deadline for lodging an appeal is 15 days from the date of notification of the decision.
4. The appellant must attach the respective allegations to the appeal application, under penalty of it being summarily dismissed.
5. In all appeals filed in the case or in any of its appendices, the deadline for filing is the same for all appellants, followed by another deadline for all respondents to respond.
6. During the time limits for filing and responding, the case shall be kept at the registry for examination and consultation by the interested parties.
7. In the case of orders or oral judgments reproduced in the proceedings, the time limit runs from the day on which they were handed down, if the party was present or was notified to attend the hearing.
8. The respondent may respond to the appellant's claim within the same time limit as that for filing the appeal.
9. In their response, the respondent may also challenge the admissibility or timeliness of the appeal, as well as the legitimacy of the appellant.
10. The regime provided for in this article shall apply insofar as no specific different regulations are prescribed for the remedies provided for in this Code.

**Chapter III**

**Recovery and Insolvency Office**

**Article 20**

**Establishment of the Recovery and Insolvency Office**

1. The BRI comprises a body of specialised officials, who act as recovery and insolvency administrators, and any additional staff necessary for the performance of their duties.
2. The BRI has its own electronic portal to publicise acts within the scope of the PRI.

**Article 21**

**Jurisdiction**

1. The BRI ensures the extrajudicial conduct of the PRI, adopting a single simplified procedure for all parties for this purpose.

2. The BRI shall cover the administrative costs of the court, as well as other costs incurred under the PRI, if the debtor does not have sufficient assets to bear the costs.
3. The BRI has exclusive jurisdiction throughout the national territory over the conduct of recovery and insolvency proceedings.

**Article 22 Functions**

The functions of the BRI are:

- a) To prepare, review and approve the forms for insolvency proceedings;
- b) To train and assess public administration employees who will perform the duties of recovery and insolvency administrators;
- c) Promote the recording and dissemination of information relating to the PRI by the competent authorities;
- d) Manage the database containing information relevant to insolvency proceedings;
- e) Manage databases of case law on insolvency;
- f) Disseminate and simplify access to the insolvency system for debtors and creditors;
- g) Collaborate with the court in the context of the PRI, carrying out whatever is determined by the court.

**Title II**

**Declaration of commencement of proceedings**

**Chapter I**

**Application for commencement of proceedings**

**Section I Submission of the request**

**Article 23**

**Application for commencement of proceedings**

1. The debtor shall apply for the opening of proceedings within 60 days of the date on which became aware of the situation of insolvency, as described in Article 4(1) and (2), or the date on which he should have become aware of it.
2. If the debtor is not a capable natural person, any of its administrators may initiate the proceedings.

**Article 24**

**Other entitled parties**

The application to open proceedings against a debtor may be requested by anyone who is legally responsible for their debts, by any creditor or by the Public Prosecutor's Office

on behalf of the entities whose interests are legally entrusted to it, if any of the following facts are verified:

- a) General suspension of payment of due obligations;
- b) Failure to perform one or more obligations which, due to their amount or the circumstances of the default, reveals the debtor's inability to meet most of their obligations on time;
- c) Flight of the owner of the company or the administrators of the debtor, or abandonment of the place where the company has its registered office or carries out its main activity, related to the debtor's lack of solvency and without the appointment of a suitable replacement;
- d) Dissipation, abandonment, hasty or ruinous liquidation of assets and fictitious creation of claims;
- e) Insufficiency of attachable assets to pay the claimant's credit verified in enforcement proceedings brought against the debtor;
- f) Failure to comply with obligations set out in a recovery plan approved under Article 116;
- g) Generalised non-compliance, in the last six months, with debts of any of the following types:
  - i) Tax debts;
  - ii) Social security contributions and dues;
  - iii) Debts arising from an employment contract or from the breach or termination of such contract;
  - iv) Rents of any type of lease, including financial leases, instalments of the purchase price or loan secured by the respective mortgage, in relation to the place where the debtor carries out its activity or has its registered office or residence.
- h) Where the debtor is one of the entities referred to in Article 4(2), liabilities clearly exceed assets according to the last approved balance sheet, or there is a delay of more than three months in the approval and filing of the accounts, if legally required to do so.

#### **Article 25**

#### **Withdrawal of the application or proceedings in the recovery and insolvency proceedings**

The applicant for the PRI may withdraw the application until the declaration of commencement of proceedings is issued.

#### **Section II**

#### **Requirements for the initial application**

#### **Article 26**

#### **Form and content of the initial application**

1. The application for the opening of the PRI shall be made by means of a written application, setting out the facts that constitute the grounds for the requested declaration and concluding with the corresponding request.
2. The forms provided by the BRI shall be used to submit the application.
3. The applicant must:
  - a) If the applicant is the debtor, indicate whether the insolvency is current or merely imminent;
  - b) Identify the debtor's legal and de facto administrators and its five largest creditors, excluding the applicant itself;
  - c) Attach a certificate from the civil registry, commercial registry or other public registry to which the debtor may be subject.
4. If the applicant is unable to provide the information and attachments referred to in the previous paragraph, they shall request that they be provided by the debtor themselves.

#### **Article 27**

#### **Attachment of documents by the debtor**

1. When making the application, the debtor, if they are the applicant, shall also attach the following documents:
  - a) An alphabetical list of all creditors, indicating their addresses, the amounts of their claims, due dates, nature and guarantees they benefit from, and the possible existence of special relationships, in accordance with Article 78;
  - b) A list and identification of all actions and enforcement proceedings pending against them;
  - c) Document explaining the activity or activities in which they have been engaged in the last three years and the establishments they own, as well as what they believe to be the causes of their current situation;
  - d) Document identifying the author of the succession, in the case of an unclaimed inheritance, and the known partners of the legal person;
  - e) List of assets held by the debtor under a lease, rental or financial lease agreement or sale with retention of title, and all other assets and rights held by the debtor, indicating their nature, location, registration details, if applicable, acquisition value and estimated current value;

- f) If the debtor has organised accounts, the annual accounts for the last three financial years, the respective management and audit reports, if mandatory or existing, and information on the most significant changes in assets that occurred after the date to which the latest accounts refer and on operations which, due to their nature, purpose or size, go beyond the debtor's current activity;
- g) List of personnel employed by the debtor.
2. The debtor must justify the non-submission or non-compliance of any of the documents required in the previous paragraph.
3. In the case of micro and small enterprises, only the documents referred to in points
- a) b), c), d) and g) of paragraph 1.
4. For the purposes of the previous paragraph, the following are considered micro-enterprises:
- a) Micro-enterprises are those that employ up to five workers and whose annual turnover does not exceed US\$ 5,000 or whose assets do not exceed US\$ 25,000;
- b) Small enterprises are those that employ between six and 20 employees and whose annual turnover does not exceed US\$ 50,000 or whose assets are valued between US\$ 25,000 and US\$ 150,000.
5. Without prejudice to subsequent submission in accordance with Article 98, the application submitted by the debtor may be accompanied by a recovery or liquidation plan.
- a) Reject outright the request for a declaration opening proceedings when it is manifestly unfounded or when there are clearly insurmountable procedural obstacles that must be addressed ex officio;
- b) Grants the applicant, under penalty of dismissal, a maximum period of 10 days to correct any remediable defects in the application, namely when it lacks legal requirements or is not accompanied by the necessary supporting documents, in cases where such deficiency is not duly justified.
2. In the event of preliminary dismissal, the applicant may lodge a reasoned appeal with the competent court within two days, which shall be considered as a preliminary issue to the admissibility of the case, with a decision being handed down within five days.

### **Article 30**

#### **Submission of the initial application by the debtor**

1. Without prejudice to the provisions of the following paragraph, the application for the opening of proceedings submitted by the debtor shall determine the declaration of the opening of proceedings by the BRI, which shall be made by the fifth working day following the date of receipt of the initial application or, if there are correctable defects, the date of their correction.
2. If the debtor acknowledges their insolvency in their initial application and requests a declaration of insolvency, this shall be immediately declared by the BRI.

### **Article 31**

#### **Submission of the initial application by a third party**

1. If the application to initiate proceedings is submitted by a third party, and if there are no grounds for preliminary dismissal, the BRI shall, within five days, notify the debtor to file an objection within 10 days, if they so wish.
2. If the application to open proceedings is submitted by a third party, the notification must be made in writing and by means that allow proof of receipt, and electronic means or publication on the BRI's electronic portal cannot be used as a substitute means of communication.
3. In the notification, the debtor is warned that the documents referred to in Article 27(1) must be ready for immediate delivery to the ARI if the opening of proceedings is declared.
4. The debtor, being a natural person, is also advised that, if they so wish, they may request the discharge of the remaining debt, under the terms of Articles 171 et seq.
5. If there is no opposition from the debtor, the BRI shall, within five days of the expiry of the period referred to in paragraph 1, declare the proceedings open and notify the debtor to submit the documents referred to in Article 27(1) within the same period.

### **Article 28**

#### **Application by another entitled party**

1. Where the application does not come from the debtor, the applicant for the opening of proceedings must justify in the application the origin, nature and amount of his claim or his liability for the claims on the insolvency, as the case may be, and provide with it the information he has regarding the debtor's estate and liabilities.
2. The applicant must also provide all the evidence at their disposal and is obliged to present the witnesses listed, the number of which may not exceed the limits set out in Article 256 of the Code of Civil Procedure.

### **Section III**

#### **Procedure for declaring the opening of proceedings**

### **Article 29**

#### **Preliminary assessment by the BRI**

1. On the day the application is submitted or, if this is not feasible, by the fifth working day thereafter, the BRI shall:

6. Before notifying the debtor, the BRI may request the court to adopt precautionary measures, pursuant to Article 34, if such measures are deemed indispensable, but without the notification being delayed by more than 15 days in relation to the period that would otherwise apply.

**Article 32**  
**Opposition by the debtor**

1. If, upon notification to that effect, the debtor lodges an objection within the period referred to in paragraph 1 of the previous article, the BRI shall refer the matter to the court within five days.
2. Without prejudice to the provisions of the following paragraph, the debtor shall attach to the objection, under penalty of non-receipt, a list of his five largest creditors, excluding the applicant, indicating their respective addresses.
3. The debtor's objection to the intended opening of proceedings may be based on the non-existence of the fact on which the application is based or on the non-existence of the situation of insolvency.
4. The provisions of Article 17(5) shall apply to the opposition lodged by the debtor.

**Article 33**  
**Decision by the court**

1. If the debtor objects, a hearing for discussion and judgement is scheduled for one of the five days following receipt of the case by the court, and the claimant, the debtor and all legal or de facto administrators identified in the initial application are notified to appear in person or to be represented by someone with the power to settle.
2. If the debtor or their representative fails to appear, the facts alleged in the initial application are deemed to have been admitted.
3. Failure by the claimant to appear, either in person or through a representative, shall be deemed to constitute withdrawal of the claim.
4. The judge shall immediately record in the minutes, as appropriate, a declaration of the opening of proceedings, if the facts alleged in the initial application are covered by Article 24, or a declaration of approval of the withdrawal of the application.
5. With both parties present, the judge selects the relevant facts that he considers to be established and which form the basis of the investigation.
6. The claims presented are decided immediately, followed by the presentation of evidence deemed relevant by the judge.

7. Once the evidence has been presented, oral arguments on the facts and the law are heard, and the judge then decides on the facts.
8. If the decision on whether to open proceedings cannot be made immediately, it shall be made within five days.
9. Once the proceedings have been opened, the court orders that they be referred to the BRI only after the deadline for lodging an appeal has expired, so that the parties can consult them and the certificates requested can be issued, in particular for the purposes of the appeal.
10. The court's decision may be appealed, with merely devolutive effect, to the competent court.

**Article 34.**  
**Precautionary measures**

1. Where there is justified concern that acts detrimental to creditors may be committed, the court shall, at the request of the applicant or the BRI, order such precautionary measures as are necessary or appropriate to prevent the deterioration of the debtor's financial situation until a declaration opening the proceedings is issued.
2. Precautionary measures may consist, in particular, of the appointment of a provisional administrator, who shall be an official proposed by the BRI with exclusive powers to administer the debtor's estate or to assist the debtor in such administration.
3. The provisional administrator referred to in the previous paragraph shall become the ARI responsible for the PRI after the declaration of the opening of proceedings or his reappointment as ARI.
4. The regime applicable to the ARI shall apply, with the necessary adaptations, to the provisional administrator.

**Chapter II**  
**Decision to initiate proceedings**

**Section I**  
**Content, notification and publicity of the decision**

**Article 35**  
**Declaration of commencement of proceedings**

- Once the opening of the PRI has been declared, the BRI or, where applicable, the court shall, with that decision:
- a) Indicate the date and time of its pronouncement, considering, in the absence of any other indication, that it took place at noon;
  - b) Identify the insolvent debtor, indicating its registered office or residence;
  - c) Identify and establish the residence of the debtor's legal and de facto administrators, as well as the debtor itself, if it is a natural person;

d) Appoint the ARI;

e) Determine that the administration of the debtor's estate, hereinafter referred to as assets,

as defined in Article 72, shall be ensured by the ARI, when the conditions required by Article 50 are met, and, in this case, order the seizure, for immediate delivery to the ARI, of the debtor's accounting records and all their assets, even if they have been seized, pledged or in any way seized or detained;

f) Order the debtor to immediately deliver to ARI the documents referred to in Article 27 that are not yet included in the case file;

g) Order the delivery to the Public Prosecutor's Office, for the appropriate purposes, of the evidence indicating the commission of a criminal offence;

h) Set a deadline of 30 days for the filing of claims, with the warning that this period shall commence from the publication of the decision on the BRI's electronic portal, pursuant to Article 37(2)(c);

i) Warn creditors that they must promptly notify the ARI of any collateral they hold;

j) Declare NECRE open with a view to approving a recovery plan, inviting creditors to participate in these negotiations if they so wish.

**Article 36**

**Notification of the declaration of commencement of proceedings**

1. The declaration of the opening of proceedings by the BRI shall be personally notified to the Public Prosecutor's Office, the applicant and the debtor.
2. The administrators of the debtor who have been assigned a place of residence are personally notified of the declaration of the opening of proceedings, and copies of the initial application are also sent to them.
3. If the declaration has been issued by the court, the BRI is also notified, which in turn notifies the parties in accordance with paragraph 1.
4. The Tax Authority, the Customs Authority, Social Security and the five largest known creditors, excluding the applicant, shall also be personally notified.
5. The other creditors and other interested parties shall be notified by public notice, with a five-day extension period, posted at the debtor's registered office or residence and at their establishments.
6. Failure to notify any of the persons referred to in the preceding paragraphs, including the debtor, shall not prevent the proceedings from continuing.

**Article 37.**

**Publicity and registration**

1. The declaration of commencement of proceedings and the appointment of an ARI shall be registered ex officio by the BRI:

a) At the civil registry office, if the debtor is a natural person;

b) In the Business Registration and Verification Service (SERVE), if there are any facts relating to the debtor subject to such registration;

c) In the computerised register of enforcement proceedings established by the Code of Civil Procedure;

d) In any other registers determined by law.

2. The BRI shall also:

a) Promote the inclusion of this information on the BRI portal;

b) Notify the BCTL of the opening of proceedings so that it can register the case with the credit risk centre;

c) Publish the declaration of commencement of proceedings on the BRI website, with the information referred to in Article 35.

3. All steps for publicising and registering the declaration of the opening of proceedings must be taken within five days.

**Article 38**

**Insufficiency of the debtor's estate**

The presumed insufficiency of the debtor's estate to cover the costs of the proceedings and foreseeable debts shall not prevent the proceedings from continuing.

**Section II**

**Appeal against the decision on the declaration of commencement of proceedings**

**Article 39**

**Appeal against the decision of the BRI on the opening of proceedings**

1. The decision to initiate proceedings issued by the BRI may be appealed to the court, even if there has been no opposition from the debtor.
2. The appeal has merely devolutive effect, unless any of the effects provided for in Article 35(c) and (e) are established, in which case the appeal has suspensive effect in respect of those matters.
3. The appeal may be based on facts or evidence that have not been previously taken into account and that may invalidate the grounds for the decision to open proceedings, as well as on the allegation that, in view of the evidence gathered, the decision should not have been made.
4. The appeal against the declaration of the opening of proceedings

shall suspend the liquidation and distribution of assets, without prejudice to the provisions of Article 142(2).

**Article 40**  
**Legitimacy to lodge an appeal**

The following may lodge an appeal against the declaration of commencement of proceedings:

- a) The debtor in a situation of absolute default, if he has not been personally notified;
- b) The spouse, ascendants or descendants and relatives in the first degree of the natural person considered insolvent, if the declaration of the opening of proceedings is based on the debtor's flight related to their lack of liquidity;
- c) The spouse, heir, legatee or representative of the debtor, where death occurred before the expiry of the time limit for lodging an objection which the debtor was entitled to raise under subparagraph (a);
- d) Any creditor who is entitled to do so;
- e) Those legally responsible for the debtor's debts;
- f) The partners, associates or members of the debtor.

**Article 41.**  
**Procedure and decision on the appeal**

1. The appeal must be lodged with the BRI within five days of notification of the opening of proceedings to the appellant or the end of the extension period, if applicable.
2. If appeals are lodged by several entities, they shall all be dealt with in a single proceeding.
3. Once the appeal has been received, the BRI notifies the debtor and the applicant of the proceedings so that they may respond, if they wish, within five days.
4. The BRI shall send the proceedings to the court within five days of their filing.
5. The provisions of Article 17(5) shall apply to the application for appeal and to the responses.
6. If it deems it appropriate, the court orders the evidentiary measures necessary for a proper decision on the case, which must be completed within a period not exceeding 20 days.
7. If the debtor or their representative fails to appear, the facts alleged in the initial application shall be deemed to have been admitted.
8. Failure of the claimant to appear, either in person or

through a representative, shall be deemed to constitute withdrawal of the claim.

9. The court shall render its decision within 30 days.
10. The court's decision is final and cannot be appealed.

11. Once the appeal has been finally decided, the court shall order that the case be referred to the BRI.

**Article 42**  
**Effects of revocation**

The revocation of the declaration of commencement of proceedings shall not affect the effects of acts lawfully performed by the BRI and the ARI.

**Article 43**  
**Appeal against the BRI's decision to reject the opening of proceedings**

1. The decision to reject the opening of proceedings issued by the BRI may be appealed to the court.
2. There is no appeal against a judgment confirming the rejection of the request for a declaration to open proceedings.

**Title III**  
**Effects of the declaration to open proceedings**

**Chapter I**  
**Recovery and insolvency administrator**

**Article 44**  
**Appointment and status**

1. The appointment of the ARI is the responsibility of the BRI.
2. The ARI is a civil servant assigned to the BRI.
3. The Government shall define, by decree-law, the academic and professional qualifications required for the position, the selection and appointment process, remuneration, responsibilities, reporting requirements and accountability.

**Article 45.**  
**Functions and their exercise**

1. The ARI shall take up their duties immediately after their appointment.
2. In addition to the other tasks assigned to him, the ARI is responsible for:
  - a) Supervising the administration of the assets by the debtor, with a view to continuing the operation of the company and preventing, as far as possible, the worsening of its economic situation, in accordance with the provisions of Article 49;
  - b) Examine the debtor's accounting records and identify the causes of the debtor's financial situation;

c) Draw up, as soon as possible, an inventory of the assets that constitute the debtor's estate, with a description and valuation of the assets that comprise it;

d) Assess the economic viability of the debtor's business and study the most appropriate means of recovery for the continuation of the activity and the safeguarding of creditors' interests;

e) If the recovery of the debtor's business is not feasible, prepare the payment of its debts at the expense of the cash amounts in the assets, namely those resulting from the sale of the assets that comprise it.

3. Without prejudice to cases of mandatory recourse to legal representation, the ARI personally exercises the powers of his office and may, in writing, delegate the performance of specific acts to another ARI.

4. In the exercise of their duties, the ARI may be assisted, under their direction, by technicians or other professionals, whether remunerated or not, subject to prior authorisation by the BRI.

5. The ARI is also responsible for providing the court with all information requested by it about its activities in a timely manner.

6. At the request of the ARI and whenever it does not have direct access to the desired information, the BRI shall request any public entities and credit institutions to provide, based on their respective records, information deemed necessary or useful for the purposes of the proceedings, namely regarding the existence of assets forming part of the estate.

#### **Article 46**

##### **Dismissal**

1. The court, at the request of the debtor or any creditor, may, at any time, dismiss the ARI and replace it with another, proposed by the BRI, whenever there is just cause, namely when there is a conflict of interest.

2. The BRI may, on reasonable grounds, dismiss the ARI at any time, whenever there is just cause.

#### **Article 47.**

##### **Publicity and registration**

The appointment and termination of the ARI's functions shall be subject to publicity and registration as provided for in Article 37, with the necessary adaptations.

a) Provide all relevant information requested by the court and the ARI for the proceedings;

b) Provide the cooperation requested by the ARI for the purposes of performing its duties;

c) Appear in person at the BRI premises or in court, whenever required to do so by the ARI or the judge, respectively, unless there is a legitimate impediment or express permission to be represented by a representative.

2. The judge may order the debtor who has failed to appear without justification to appear in custody, without prejudice to the applicable fine.

3. The provisions of the preceding paragraphs also apply to the members of the debtor's corporate bodies, employees and service providers, as well as to persons who have been so within the two years prior to the commencement of the PRI.

4. The debtor or its directors are responsible for preparing and filing the annual accounts that are legally required for the period of their administration.

5. The ARI may set a deadline for compliance with the provisions of the previous paragraph.

#### **Article 49**

##### **Administration by the debtor**

1. Without prejudice to the provisions of the following article, once the PRI has been declared open, the debtor or, where applicable, its administrators shall retain the powers to manage and dispose of the assets and, in exercising these powers, shall promote the viability of the company in the manner most convenient to the interests of the proceedings.

2. It is incumbent upon the BRI to decide on the closure of the company, either ex officio or upon a duly substantiated proposal from the ARI, the debtor itself or a creditor.

3. The debtor, either personally or through its administrators, shall not incur obligations:

a) If the ARI expressly objects, in the case of ordinary management acts;

b) Without the consent of the ARI, in the case of extraordinary acts of administration.

#### **Chapter II**

##### **Effects on the debtor**

#### **Article 48**

##### **Duty to cooperate**

1. Once the PRI has been declared open, the debtor is obliged to:

4. For the purposes of the preceding paragraph, acts of ordinary administration are considered to be material or legal acts of daily and routine management, and acts of extraordinary administration are those which, due to their amount, risk or characteristics, may substantially modify the composition or

value of the estate.

5. Ex officio or at the request of the ARI or a creditor, the judge may prohibit the debtor from performing certain acts without the approval of the ARI.
6. The ARI shall always have the right to bring any actions against the debtor's administrators, as well as against persons who are legally responsible for the debtor's debts.

**Article 50**

**Cessation of administration by the debtor**

1. The judge may, on reasonable grounds, deprive the debtor, either personally or through its administrators, of the powers of administration and disposal of the assets comprising the estate, which shall then pass to the ARI, if:
  - a) If requested by the debtor; or
  - b) If requested by the ARI or by any creditor, where there are reasons to fear delays in the proceedings or disadvantages for the recovery of the company or for the satisfaction of creditors' rights.
2. Once the decision referred to in the previous paragraph has been taken, the assets shall be seized immediately and the ARI shall represent the debtor for all purposes relating to the proceedings.
3. The representation referred to in the previous paragraph shall not extend to the debtor's intervention in the PRI itself and its incidents, unless expressly provided otherwise.
4. Limitations on the debtor's power of disposal established by judicial or administrative decision or imposed by law only in favour of certain persons shall not apply to the ARI.

**Article 51.**

**Publicity and registration**

The prohibition of certain acts without the consent of the ARI and the decision to terminate the administration of the estate by the debtor shall be publicised and subject to registration, in accordance with Article 37, with the necessary adaptations.

**Article 52**

**Regime governing acts performed by the debtor**

1. Acts performed by the debtor in violation of the provisions of paragraphs 3 to 5 of Article 49 shall be ineffective, and the estate shall be liable for the restitution of what has been provided to it, in accordance with the rules of unjust enrichment, unless such acts have been performed for consideration with third parties acting in good faith:

- a) Prior to the publication and registration of the declaration of commencement of proceedings, in the case of acts provided for in Article 49(3); or
- b) Prior to the registration of the prohibition of certain acts without the consent of the ARI, in the case of the acts provided for in Article 49(5).

2. Acts performed by a debtor who has been deprived of the administration of the estate under Article 50 are ineffective, and the estate is liable for the restitution of what has been provided to it only in accordance with the rules of unjust enrichment, unless such acts were entered into for consideration with third parties acting in good faith prior to the publicity and registration referred to in Article 51.
3. The ARI may ratify the ineffective acts performed by the debtor.
4. Debt payments made to the debtor after the decision referred to in Article 50 has been taken shall only be valid if they are made in good faith on a date prior to the respective publication and registration or if it can be demonstrated that the respective amount has actually been received by the estate.

**Article 53**

**Remuneration and maintenance**

1. If the debtor is a natural person and remains in charge of the estate, they shall be entitled to withdraw from it the funds necessary for a modest life for themselves and their household, taking into account the possibilities of the estate.
2. If the debtor is a legal person, the remuneration of the members of its governing bodies shall be maintained until the decision referred to in Article 50(1) is taken.
3. At any time, at the request of the ARI or any creditor, the court may set the amount of the payments to which the debtor or its administrators are entitled, as referred to in the preceding paragraphs.
4. Once the decision referred to in Article 50(1) has been taken, if the debtor or, in the case of a legal person, its directors are completely lacking in means of subsistence and are unable to earn them through their work, the court may award them a maintenance allowance from the proceeds of the estate.
5. Where there are just grounds, at the request of the ARI or any creditor, and by decision of the court, the award of maintenance to the debtor may be terminated at any stage of the proceedings.

**Chapter III**

**Procedural effects**

**Article 54**

**Effects on pending actions**

1. Proceedings pending on the date of the declaration of the opening of proceedings, in which the debtor is a party, shall continue under normal terms.

2. If, in relation to a claim on the debtor that has been recognised as a contingent claim under the PRI, a final court decision is handed down on the amount and nature of that claim, such a decision cannot be enforced, but shall be observed in the PRI with regard to the recognition and ranking of that claim.

**Article 55**

**Joinder of insolvency proceedings**

1. At the request of the ARI, proceedings in which the opening of proceedings has been declared in relation to persons who are legally liable for the debtor's debts or, in the case of a married natural person, their spouse, if the property regime is not that of separation, shall be joined to the proceedings.
2. The provisions of the previous paragraph shall also apply, where the debtor is a commercial company, to proceedings in which proceedings have been declared open in respect of companies which it controls or which are in a group relationship with it.

**Article 56**

**Enforcement actions**

1. The declaration of the opening of proceedings shall determine the suspension, for a period of four months, of any enforcement measures or proceedings requested by creditors that affect the assets included in the estate and shall prevent the initiation or continuation of any enforcement action brought by the debtor's creditors.
2. The provisions of the preceding paragraph shall not prevent enforcement proceedings from continuing against other defendants, if any.
3. In the case of enforcement proceedings against other defendants, a copy of the proceedings relating to the debtor shall be extracted and forwarded to the PRI for attachment.
4. The suspension period referred to in paragraph 1 may be extended by the BRI at the request of the ARI, the debtor or the creditors, if it is demonstrated that:
  - a) There has been significant progress in the negotiations of the recovery plan, suggesting a strong likelihood of its approval; and
  - b) The continuation of the suspension of enforcement measures does not unfairly prejudice the rights or interests of the parties concerned.
5. The total duration of the suspension of enforcement measures, including extensions and renewals, may not in any case exceed 12 months.
6. During the suspension period, the ARI shall take the necessary measures to safeguard the value of the enforceable claims.

7. In the case of secured claims, the suspension of enforcement referred to in paragraph 1 shall only cover assets that are necessary for the continuation of the company's activity.
8. Enforcement actions suspended under paragraph 1 shall be extinguished, as regards the insolvent debtor, as soon as the insolvency proceedings are closed after the final apportionment, except for the purposes of exercising the right of reversion provided for by law.
9. It is the responsibility of the ARI to notify the court, in writing and preferably by electronic means, of the occurrence of the facts described in the previous paragraph.

**Article 57.**

**Initiation of new actions**

While the NECRE is pending, no declaratory actions concerning debts of the estate or enforcement actions may be brought against the debtor.

**Chapter IV**

**Effects on claims**

**Article 58**

**Exercise of claims against the debtor**

Pending the PRI, the debtor's creditors may only exercise their rights in accordance with the provisions of this Code.

**Article 59**

**Suspension of interest accrual**

1. Without prejudice to the following paragraph, the declaration of commencement of proceedings shall determine the suspension of interest accrual, whether statutory or contractual, except for tax debts and wage claims.
2. Secured claims shall continue to accrue interest until their value, added to the principal amount, reaches the value of the assets subject to the guarantees or privileges.
3. In the event of liquidation, only interest that would have accrued had there been no suspension may be paid, after the claims on the proceedings and the claims on the debtor have been satisfied in full.

**Article 60**

**Jointly and severally liable persons and guarantors**

1. The creditor may claim the total amount of its credit from each of the different groups of joint debtors and guarantors, provided that the sum of the amounts received from all of them does not exceed the amount of its credit.
2. The co-debtors or guarantors of a debtor's debt may claim their credit in relation to any future payment of such debt.
3. The claim referred to in the previous paragraph, which is always considered a claim subject to a condition precedent, shall only be upheld to the extent that the creditor does not claim it.

**Article 61**

**Conversion of claims**

1. For the purposes of the respective holder's participation in the proceedings:
  - a) Non-monetary claims shall be satisfied at their estimated value in US dollars on the date of the declaration of commencement of proceedings;
  - b) Monetary claims whose amount is not determined shall be satisfied at their estimated value in US dollars on the date of the declaration of commencement of proceedings;
  - c) Claims expressed in foreign currency or indices are settled in US dollars at the exchange rate in force on the date of the declaration of commencement of proceedings in lieu of the respective payment.
2. The claims referred to in subparagraphs a) and c) of the previous paragraph shall be considered definitively converted into US dollars once they have been recognised.

**Article 62.**

**Compensation**

Without prejudice to any legal provision to the contrary, it is not possible to offset claims and debits on the estate, unless the requirements for offsetting were already met before the declaration of the opening of proceedings.

**Article 63**

**Suspension of limitation and expiry**

The declaration of the opening of proceedings shall determine the suspension of all limitation periods and expiry dates enforceable by the debtor during the course of the proceedings.

**Chapter V**

**Effects on ongoing business**

**Article 64**

**General principle regarding unfulfilled transactions**

1. The declaration of commencement of proceedings does not affect the validity of any bilateral contract that has not yet been fully performed by either the debtor or the other party.
2. The ARI may, however, request the court to terminate a contract if this is in the interests of the proceedings, which shall follow the terms of the common incidental proceeding, with the judge deciding what is to be returned and what compensation is to be paid from the estate.

**Article 65.**

**Hiring of workers**

The debtor, in the case referred to in Article 49, or the ARI, in

the case referred to in Article 50, may hire, on a fixed-term or indefinite basis, the workers necessary for the continued operation of the company or the liquidation of its assets, but the new contracts shall expire upon the definitive closure of the establishment where the workers provide their services or, unless otherwise agreed, upon its transfer or the closure of the proceedings.

**Article 66**

**Mandatory rules**

1. Any agreement that excludes or limits the application of the above rules in this chapter shall be null and void.
2. Any clause that attributes to the opening of proceedings or insolvency the value of a condition subsequent to the transaction or confers a right to compensation, termination or denunciation in terms other than those provided for in this chapter shall also be null and void.
3. The provisions of the preceding paragraphs shall not prevent insolvency from constituting just cause for termination or cancellation, taking into account the nature and content of the contractual obligations.

**Chapter VI**

**Termination for the benefit of the estate**

**Article 67**

**General principles**

1. Acts that are detrimental to the debtor's estate and performed within two years prior to the date of commencement of the PRI may be terminated for the benefit of the estate.
2. The following acts are presumed to be detrimental to the estate, without admission of evidence to the contrary:
  - a) Distribution agreed less than one year prior to the date of commencement of the PRI in which the debtor's share has been essentially filled with assets that are easy to conceal, with the co-interested parties receiving most of the real estate and registered securities;
  - b) Acts entered into by the debtor free of charge within the two years prior to the date of commencement of the PRI, including the repudiation of inheritance or legacy, with the exception of donations in accordance with social customs;
  - c) Constitution by the debtor of real guarantees relating to pre-existing obligations or others that replace them in the six months prior to the date of commencement of the PRI;
  - d) Payment or other acts of extinguishing obligations whose maturity date was after the date of commencement of the PRI, occurring within the six months preceding the date of commencement of the proceedings or after that date but before the obligation becomes due;
  - e) Payment or other form of extinguishment of obligations made within the six months prior to the date of

commencement of the PRI on terms that are unusual in legal commerce and that the creditor could not demand;

- f) Acts for consideration performed by the debtor within the year prior to the date of commencement of the PRI in which the obligations assumed by the debtor clearly exceed those of the counterparty;
  - g) Reimbursement of supplies, when it takes place within the same period referred to in the previous paragraph.
3. The following acts are presumed to be detrimental to the estate, unless proven otherwise:
- a) Guarantees, sub-guarantees, sureties and credit mandates granted by the debtor during the period referred to in subparagraph
  - e) of the previous paragraph and which do not relate to business transactions of real interest to him;
  - b) Constitution by the debtor of real guarantees simultaneously with the creation of the guaranteed obligations, within 60 days prior to the date of commencement of the PRI;
  - c) Acts performed with persons specially related to the debtor within two years prior to the date of commencement of the PRI.
4. Acts performed by the debtor that are considered to be part of the normal course of business of the respective company cannot be resolved.

**Article 68**

**Form of resolution and limitation of rights**

- 1. It is incumbent upon the ARI to bring legal action for the resolution of the act, which must be proposed within six months of becoming aware of the act, but never after two years have elapsed since the date of the declaration of the opening of the proceedings.
- 2. However, as long as the transaction has not been completed, the termination may be declared, without regard to the time limit, by way of exception.
- 3. The action for termination shall follow the terms of the common incidental proceeding.

**Article 69**

**Enforceability against transferees**

- 1. The enforceability of the termination of the act against subsequent transferees presupposes their bad faith, except in the case of universal successors or if the new transfer occurred free of charge.
- 2. The provisions of the preceding paragraph shall apply, with the necessary adaptations, to the establishment of rights over assets transferred for the benefit of a third party.

**Article 70**

**Effects of termination**

- 1. The termination shall have retroactive effect, and the situation that would have existed if the act had not been performed or omitted, as the case may be, shall be restored.
- 2. A third party who fails to present the assets or values to be returned to the estate within the period set in the judgment shall incur the penalties provided for in the procedural law for the depositary of seized assets who fails to deliver them in a timely manner.
- 3. The return of the object provided by the third party shall only take place if it can be identified and separated from those belonging to the rest of the estate.
- 4. If the circumstance provided for in the previous paragraph does not occur, the obligation to return the corresponding value constitutes a debt of the proceedings to the extent of the respective enrichment on the date of the declaration of the opening of the proceedings and a debt of the estate with regard to any remainder.

**Article 71.**

**Paulian challenge**

- 1. Creditors are prohibited from filing new actions to challenge acts performed by the debtor whose resolution has been requested by the ARI.
- 2. Actions to challenge fraudulent conveyances pending on the date of the declaration of commencement of proceedings or proposed subsequently are not appended to the proceedings and, if resolution has been requested by the ARI, they shall only proceed if such resolution is dismissed by the court.
- 3. If the action for avoidance is upheld, the interest of the creditor who brought it shall be assessed, for the purposes of Article 550 of the Civil Code, without taking into account any changes to its credit introduced by a possible recovery and insolvency plan.

**Title IV**

**Determination of assets and claims**

**Chapter I**

**Determination of assets**

**Article 72**

**Debtor's estate**

- 1. The debtor's estate comprises all of the debtor's property and rights on the date of the declaration of the opening of proceedings, as well as those acquired during the proceedings.
- 2. Assets that are legally exempt from seizure may not be included in the assets, unless the debtor voluntarily presents them and the exemption from seizure is not absolute.

3. The debtor's estate is intended to satisfy the respective creditors after the debts of the proceedings have been paid.

**Chapter II**  
**Creditors of the estate**

**Article 73**

**Claims on the estate**

1. For the purposes of this Code, creditors of the estate shall be, regardless of their nationality or domicile, all holders of claims of a patrimonial nature on the estate or secured by assets forming part of the estate, the basis of which predates the date of the declaration of the opening of the proceedings.
2. Those who, pending the proceedings, acquire claims referred to in the previous paragraph shall be treated as creditors of the estate.
3. Claims on the estate are classified according to the following classes: labour, secured, privileged, common and subordinated.

**Article 74**  
**Labour claims**

Labour claims are claims relating to the remuneration of workers and the respective interest on arrears, as well as compensation arising from the termination of the employment contract, which enjoy priority in payment, even in relation to claims by the State.

**Article**  
**75 Secured claims**

1. Secured claims are those that benefit from a real guarantee or a special privilege, up to the amount corresponding to the value of the assets subject to the guarantees or privileges, taking into account any prevailing encumbrances.
2. The amount of the claims referred to in the previous paragraph that exceeds the value of the assets subject to the guarantees or privileges is classified in accordance with the regime that would apply to the part that does not benefit from the guarantee.
3. The balance referred to in the previous paragraph is an estimated value until it is replaced by the actual balance determined after the liquidation of the respective assets.

**Article 76.**  
**Privileged claims**

Preferential claims are those that benefit from general credit privileges over the assets comprising the estate up to the amount corresponding to the value of the assets subject to

such privileges, taking into account any prevailing encumbrances.

**Article 77**  
**Common claims**

Ordinary claims are all other claims against the debtor that are not covered by the preceding articles.

**Article 78**  
**Subordinated claims**

Subordinated claims are ranked in the following order, after the other claims on the estate:

- a) Claims held by persons specially related to the debtor, provided that the special relationship already existed at the time of their creation, and by those to whom they have been transferred in the two years prior to the commencement of the proceedings;
- b) Claims whose subordination has been agreed between the parties;
- c) Claims relating to gratuitous payments by the debtor;
- d) Claims on the estate which, as a result of the resolution in favour of the estate, result in bad faith on the part of the third party;
- e) Claims for supplies.

**Article 79**  
**Persons specially related to the debtor**

1. The following are considered to be specially related to the natural person debtor:
  - a) Their spouse and persons from whom they have divorced in the two years prior to the commencement of proceedings;
  - b) The ascendants, descendants or siblings of the debtor or of any of the persons referred to in the previous paragraph;
  - c) The spouses of the debtor's ascendants, descendants or siblings;
  - d) Persons who have habitually lived with the debtor in a common economy during the two years prior to the commencement of proceedings.
2. The following are considered to be specially related to the debtor as a legal person:
  - a) Partners, associates or members who are legally liable for their debts and persons who had that status in the two years prior to the commencement of proceedings;
  - b) Persons who, where applicable, have been in a group relationship with the debtor, under the terms of the Companies Act, or in a controlling relationship, as defined in paragraphs 3 and 4, during the two years prior to

- the commencement of proceedings;
- c) The de jure or de facto directors of the debtor and those who have been directors at any time in the two years prior to the commencement of proceedings;
  - d) Persons related to any of those mentioned in the preceding paragraphs in any of the ways referred to in paragraph 1.

3. For the purposes of this Code, a controlling relationship is considered to exist between a natural or legal person and a company when, regardless of whether the domicile or registered office is located in Timor-Leste or abroad, the former can exercise direct or indirect control over the latter.

4. In any case, a controlling relationship exists when a natural or legal person, directly or indirectly:

- a) Holds a majority stake in the share capital;
- b) Holds more than half of the votes;
- c) Can exercise the majority of voting rights, under the terms of a shareholders' agreement;
- d) Has the possibility of appointing or dismissing more than half of the members of the management body or supervisory body.

5. In cases where insolvency relates only to separate assets, the respective owners and administrators are considered to be specially related persons, as well as those who are connected to them in any of the ways provided for in the preceding paragraphs.

6. In the case of an estate in abeyance, persons connected to the deceased by any of the means provided for in paragraph 1 on the date of the opening of the succession or in the two preceding years shall also be considered persons specially related to the debtor.

**Article 80**  
**Contingent claims**

1. Any of the claims referred to in the preceding articles may be a contingent claim.
2. Contingent claims are those whose constitution or effectiveness and existence are subject to the verification or non-verification of a future and uncertain event, whether by virtue of law, judicial decision or legal transaction.
3. The first group of cases referred to in the previous paragraph, considered as claims under suspensive contingency, are namely:

- a) Those resulting from a possible termination or cancellation of acts by the ARI for the benefit of the estate, as long as this has not been definitively decided;

- b) Claims that cannot be enforced against the debtor without prior enforcement against the assets of another person;
- c) Claims secured by assets in the estate for which the debtor is not personally liable, as long as the debt is not due.

4. The second group of cases referred to in paragraph 2, considered as contingent claims, are treated as non-contingent until the condition is fulfilled, without prejudice to the obligation to refund payments received once the condition is verified.

**Chapter III**  
**Debts of the proceedings**

**Article 81**  
**Debts of the proceedings**

1. Unless expressly provided otherwise, the following are debts of the proceedings, in addition to others classified as such in this Code:

- a) The costs of the proceedings;
- b) Debts arising from acts of administration, liquidation and distribution of the estate;
- c) Debts resulting from the actions of the ARI and the provisional ARI in the exercise of their functions;
- d) Debts resulting from the debtor's professional activity after the declaration of the opening of the proceedings;
- e) Any debt resulting from a bilateral contract whose termination or resolution is not requested by the ARI, except to the extent that it relates to a period prior to the declaration of the opening of the proceedings;
- f) Debts arising from unjust enrichment of the estate;
- g) The obligation to pay maintenance relating to the period after the date of the declaration opening the proceedings.

2. The amount of the maintenance obligation payable by the debtor may be adjusted by the judge in a fair manner, taking into account the needs of the maintenance creditor and the debtor's ability to pay.

3. The claims corresponding to the debts of the proceedings and the holders of those claims are referred to, respectively, as claims of the proceedings and creditors of the proceedings.

**Title V**  
**Negotiation phase with creditors**

**Article 82**  
**Commencement and duration of negotiations with creditors**

1. With the publication of the declaration of commencement of proceedings, NECRE shall commence with a view to approving a recovery plan.

2. Only the debtor's creditors may participate in the negotiations.
3. The NECRE term is 90 days, which may be extended once for 30 days.
4. The extension of the period is decided by the ARI, after hearing the debtor.

**Article 83**  
**Conduct of negotiations**

1. It is the responsibility of the ARI, with the cooperation of the debtor, to conduct the negotiations, setting the respective rules, guiding and supervising the progress of the work and its regularity, ensuring that all creditors can participate and that they are conducted in a transparent and equitable manner, and ensuring that no delaying tactics, useless measures or, in general, measures detrimental to the smooth running of the negotiations are adopted.
2. During the negotiations, the debtor shall provide all relevant, up-to-date and complete information to its creditors and to ARI.
3. The same obligation as that provided for in the previous paragraph applies to the ARI in relation to the debtor and creditors.
4. The debtor, as well as its legal or de facto administrators, in the case of a legal person, are jointly and severally liable for damages caused to its creditors due to the lack or inaccuracy of communications or information provided to them.
5. The procedure for enforcing the liability referred to in the previous paragraph shall follow the terms of the common incidental proceeding.

**Article 84**  
**Protection of creditors in the proceedings**

1. Creditors who, in the course of the proceedings, finance or otherwise assist the debtor's activity by providing it with funds or other means to enable it to continue its activity in the short and medium term shall be considered creditors in the proceedings.
2. The transactions referred to in the previous paragraph, as well as the guarantees agreed between the debtor and its creditors associated with such transactions, cannot be terminated within a period of two years under a PRI.

**Article 85.**  
**Closure of NECRE**

1. NECRE shall be closed at the end of the period provided for in Article 82 or when the BRI, at the proposal of the ARI, determines its closure before the expiry of that period, considering that it is unlikely

that:

- a) The submission or approval of a recovery plan; or
  - b) The submission of any plan other than the one that has already been submitted.
2. The decision to close NECRE shall be published on the BRI website and notified personally to the debtor.

**Title VI**  
**Determination of claims**

**Chapter I**  
**Claims, verification and ranking of claims**

**Article 86**  
**Claiming claims**

1. Within the time limit set for this purpose in the declaration opening the proceedings, creditors, including the Public Prosecutor's Office in defence of the interests of the entities it represents, must request verification of their claims by means of an application, accompanied by all the supporting documents at their disposal, in which they indicate:
  - a) Their origin, due date and amount of principal and interest;
  - b) The conditions to which they are subject, both suspensive and resolute;
  - c) Their nature as subordinated, ordinary, privileged, secured or labour-related and, in the case of secured claims, the assets or rights subject to the security and their respective registration details, if applicable;
  - d) The existence of any personal guarantees, with identification of the guarantors;
  - e) The applicable default interest rate.
2. The application is addressed to the ARI and submitted to the BRI by email or in another written form.
3. The BRI must sign upon delivery or send to the claimant creditor, within three days of receipt, proof of receipt, in the same manner used to send the claim.
4. For the purposes set out in the preceding paragraphs, the forms approved by the BRI shall be used.

**Article 87**  
**Verification of claims**

1. The verification covers all claims against the debtor, regardless of their nature and basis, and, without prejudice to the provisions of paragraph 1 of the following article, even creditors whose claims have been recognised by a final decision are not exempt from filing them with the PRI if they wish to participate in the approval of the recovery plan.
2. If the debtor is declared insolvent, the verification of claims is essential for the creditor to obtain payment

in the proceedings.

**Article 88**

**List of recognised and unrecognised claims**

1. Within 10 days of the deadline for claims, the ARI shall submit to the BRI a list of all creditors recognised by it and a list of those not recognised, both in alphabetical order, relating not only to those who have filed a claim but also to those whose rights are recorded in the debtor's accounts or are otherwise known to it.
2. The list of recognised creditors shall include the identification of each creditor, the nature of the claim, the amount of principal and interest at the date of the declaration of commencement of proceedings, personal and real guarantees, privileges, the applicable default interest rate and any conditions precedent or conditions subsequent.
3. The list of unrecognised creditors indicates the reasons for non-recognition.
4. The list drawn up by the ARI must be published on the BRI website.
5. All unrecognised claimant creditors, as well as those whose claims are recognised without having been claimed, or on terms different from those of the respective claim, shall also be notified personally by the ARI.
6. The ARI shall attach to the file proof of the publication and notifications referred to in the preceding paragraphs.

**Article 89**

**Challenge to the list and response to the challenge**

1. Within 10 days of the publication of the list of claims or, where applicable, the notification referred to in paragraph 5 of the previous article, any interested party may challenge the list of recognised creditors by submitting a request to the BRI, on the grounds of the improper inclusion or exclusion of claims or the incorrect amount or classification of recognised claims.
2. The holders of the contested claims must be personally notified, and the list of claims that have been contested must also be published on the BRI website.
3. The ARI and any interested party who takes a position contrary to that of the challenge, including the debtor, may respond to any of the challenges.
4. However, if the challenge is based on the improper inclusion of a certain claim in the list of recognised creditors, on the omission to indicate the conditions to which it is subject, or on the fact that it has been assigned an excessive amount

or a higher rating than is correct, only the holder himself may respond.

5. The response must be submitted within 10 days of the notification or publication referred to in paragraph 2.
6. The provisions of Article 17(5) shall apply to challenges and responses.

**Article 90**

**Procedure for challenges and responses**

1. The lists of claims recognised and not recognised by the ARI, the challenges and the responses shall be filed in a single appendix.
2. During the period for objections and responses, the proceedings shall be kept at the BRI secretariat for examination and consultation by interested parties.

**Article 91. Investigative measures**

1. If the verification of any of the claims requires the production of evidence, the BRI shall order the necessary measures, which must be completed within 20 days from the end of the period for responses to challenges, with all interested parties benefiting from the evidence produced by any of them.
2. The BRI may, if it deems it appropriate, order a hearing to be held, to which the debtor, the ARI or the creditors may be summoned.

**Article 92**

**Decision on the verification and ranking of claims**

1. If there are no objections, the BRI shall immediately issue a decision on the verification and ranking of claims, in which, unless there is a manifest error, it shall approve the list of recognised creditors drawn up by the ARI and rank the claims in accordance with that list.
2. If there are any challenges, once the deadline for responding to them has passed and, where applicable, the evidentiary proceedings have been concluded, the BRI shall issue a decision on the verification and ranking of claims within 10 days.
3. Claims included in the respective list and not contested shall always be considered verified.
4. Other claims that can be verified based on the evidence contained in the case file shall also be considered verified.
5. The ranking is special for assets subject to real rights of guarantee and credit privileges and general for the remaining assets in the estate.
6. In the ranking of claims, preference

resulting from judicial mortgages or attachments, but the costs paid by the creditor in the legal action in which they are the plaintiff or executor constitute debts of the proceedings.

7. If there is an appeal to the court, the BRI must draw up a new list that complies with the court's decision.

## **Chapter II Separation and restitution**

### **Article 93. Separation and restitution**

1. Assets held by the debtor over which the debtor does not have full and exclusive ownership, or which are not part of the estate or cannot be seized, shall, if they can be separated from the estate, be returned by the debtor or by the ARI, when the debtor is not administering their assets, to their rightful owners, at the latter's request.
2. The provisions relating to the claim and verification of claims shall apply, with the necessary adaptations, to the separation and restitution of assets.
3. If restitution is impossible, the aggrieved owner may choose between demanding the assignment of the right to receive the consideration, if the counterparty has not yet done so, or demanding the credit corresponding to the valuation of the respective assets or their sale, whichever is greater.
4. The credit referred to in the previous paragraph is considered a credit on the estate if the fact that prevented the restitution occurred prior to the declaration of the opening of the proceedings, and is considered a credit on the proceedings if such fact occurred at a later date.
5. If the debtor retains control of their assets, the regime provided for in paragraph 1 shall only apply if, for any reason, the title legitimising the debtor's ownership or possession of the asset is extinguished.

### **Article 94**

#### **Time limit for filing a request for separation and restitution**

The right to separation or restitution of assets may be exercised at any time.

## **Chapter III Subsequent verification**

### **Article 95 Subsequent verification of claims**

1. Once the deadline for claims has expired, it is still possible to recognise other claims, so that they can be dealt with in the proceedings, by means of a request addressed to the BRI.

2. The application referred to in the previous paragraph must be

personally notified to the debtor, the ARI and, through the BRI portal, to all creditors, who shall be deemed to have been notified five days after the date of publication.

3. The right to claim other claims may only be exercised within six months of the publication of the declaration of commencement of proceedings on the BRI portal, as provided for in Article 37, or within three months of its constitution, if it ends later.
4. Those who have been notified in person under the terms of Article 89(2) may not submit a request for subsequent verification of claims.
5. The provisions of Articles 87 to 92 shall apply, with the necessary adaptations, to the subsequent verification of claims.

## **Chapter IV Judicial review**

### **Article 96 Appeal to the court**

The decision on the verification and grading of claims, on the separation and restitution of assets, and on the subsequent verification of claims may be appealed to the court, which shall be assessed and decided in accordance with the rules of common incidental proceeding.

## **Title VII Recovery Plan**

### **Chapter I Presentation and content**

#### **Article 97 Recovery plan**

1. The payment of claims on the estate, the liquidation of the estate and its distribution among the holders of those claims and the debtor, as well as the debtor's liability after the end of the PRI, may be regulated in a recovery plan.
2. The plan may only affect the legal sphere of the interested parties or interfere with the rights of third parties to the extent that this is expressly authorised in this Code or consented to by the parties concerned.

#### **Article 98 Submission of the proposed recovery plan**

1. The ARI, the debtor and any creditor or group of creditors whose claims represent at least one-fifth of the total unsubordinated claims, according to the list of recognised creditors, may submit a proposal for a recovery plan.
2. The plan must be submitted to the BRI during the

NECRE or within a maximum of five days after its closure.

3. If the plan is drawn up by the ARI, it must consult with the representatives of the employees and the debtor, as well as comply with the guidelines resulting from the NECRE.

4. Once the proposed plan has been submitted, the BRI shall notify the debtor, if not the proposer, to comment on it within 10 days.

#### **Article 99**

##### **Absence of a recovery plan and declaration of insolvency**

If no recovery plan proposal is submitted, the BRI shall immediately declare the debtor insolvent.

#### **Article 100**

##### **Contents of the recovery plan**

1. The recovery plan must clearly state the changes it will bring about in the legal positions of creditors.

2. Unless the affected creditors agree, the recovery plan may not provide that creditors of a lower class may receive any distribution or retain any interest before creditors of a higher class have been paid in full.

3. The recovery plan must also indicate its purpose, describe the measures necessary for its implementation, whether already taken or still to be taken, and contain all the relevant information for the purposes of its approval by creditors and ratification by the court, namely:

- a) A description of the debtor's estate, financial situation and creditworthiness;
- b) An indication of whether the means of satisfying creditors will be obtained through the recovery of the owner of the company or the transfer of the company to another entity;
- c) The indication of the elements that allow the economic and financial viability of maintaining the company's activity to be assessed, when the plan provides for the company to remain in operation under the ownership of the debtor or a third party and for creditors to be paid from the company's income;
- d) The expected impact of the proposed changes, compared to the situation that would arise in the absence of any recovery plan.

#### **Article 101**

##### **Measures affecting liabilities**

The recovery plan may, in particular, contain the following measures affecting the debtor's liabilities:

- a) The forgiveness or reduction of the value of claims on the assets, both in terms of capital and interest;
- b) The conditioning of the repayment of all or part of the claims on the debtor's available funds;
- c) Modification of the maturity dates or interest rates of the claims;
- d) The provision of guarantees;
- e) The assignment of assets to creditors.

#### **Article 102**

##### **Effects of the approval of the recovery plan on claims**

1. In the absence of express regulations to the contrary contained in the plan approved by the creditors, the recovery plan shall have the effects set forth in the following paragraphs.
2. Rights arising from collateral and credit privileges are not affected by the plan.
3. Subordinated claims are considered to be subject to total forgiveness.
4. Compliance with the plan releases the debtor and those legally responsible from all remaining debts.

#### **Article 103**

##### **Specific measures for commercial companies**

1. If the debtor is a commercial company, the recovery plan may be conditional upon the adoption and implementation of any measures by the competent corporate bodies, without prejudice to Article 106(1).
2. The following measures, among others, may be adopted by creditors in the recovery plan:
  - a) A reduction in share capital to cover losses, including to zero or another amount lower than the minimum established by law for the respective type of company, provided that, in this case, the reduction is accompanied by an increase in capital to an amount equal to or greater than that minimum;
  - b) An increase in share capital, in cash or in kind, to be subscribed by third parties or creditors, namely through the conversion of claims into shareholdings, with or without regard to the pre-emptive rights of shareholders provided for by law or in the articles of association;
  - c) Amendment of the company's articles of association;
  - d) The transformation of the company into another of a different type;
  - e) The alteration of the governing bodies.

3. A reduction of capital to zero is only permissible if all, without prejudice to the provisions of Article 122 concerning non-shareholders consent to it or if it can be assumed that, in the compliance with the plan. event of full liquidation of the company's assets, there would be no remainder to distribute to the shareholders.

**Article 107  
Consents**

4. The approval of a capital increase without granting preference to the shareholders, even if by contributions in kind, presupposes that the company's capital has been previously reduced to zero.
  5. The adoption of the measures provided for in subparagraphs c) to e) of paragraph 2, unless the capital has been reduced to zero or all members have been excluded, depends, cumulatively, on:
    - a) The recovery plan also includes a capital increase of the company intended, in whole or in part, for non-members;
    - b) Such measures may, according to the law, be decided at a general meeting of shareholders and the increase is approved by the majority of creditors and third parties participating for that legal or statutory purpose.
1. The proposal for a recovery plan for a natural person under which he or she is to continue to operate the business shall be accompanied by a statement by the debtor of his or her willingness to do so, except where he or she is the author of the proposal.
  2. The transfer of assets in payment of debts, the conversion of these into capital or the transfer of the corresponding debts to third parties with discharging effect for the former debtor depends on the consent of the holders of the debts in question, given in writing, with the provisions of the final part of Article 10(2) applying.
  3. For the purposes referred to in the previous paragraph, the value of the assets in question must be assessed by the ARI, which may request the assistance of an independent expert for this purpose.
  4. The transfer of debts corresponding to common or subordinated claims is exempt from the provisions of paragraph 2 when the new debtor is the new company or companies resulting from the acquisition of establishments, under the terms of Article 104.

**Article 104  
Reorganisation by transfer**

A recovery plan that provides for the establishment of one or more companies, referred to in this Code as the new company or companies, for the purpose of operating one or more establishments acquired from the estate in return for adequate consideration, shall contain, in an annex, the articles of association of the new company or companies and provide for the appointment of the corporate bodies.

**Article 105  
Proposal with alternative content**

If the recovery plan offers all creditors, or some or several of them, several alternative options, it must indicate which one applies if the right to choose is not exercised within the time limit set for that purpose.

**Article 106  
Acts prior to approval and conditions**

1. The imposition of conditions precedent on the recovery plan is only lawful in the case of payments or other measures that must be carried out before approval by the court.
2. If the recovery plan provides for an increase in the share capital of the debtor company or a reorganisation by transfer, the subscription of the shares shall take place prior to approval, as shall the full payment of cash contributions, by deposit to the order of the BRI, the issuance of declarations that the contributions in kind have been transferred and the verification of their value by the statutory auditor appointed in the plan.

3. No conditions may be attached to the recovery plan

**Article 108  
Admission of the proposed recovery plan**

1. The BRI may not accept the proposed recovery plan when:
  - a) Violation of the rules on legitimacy to submit the proposal or on the content of the plan, and the defects are irremediable or are not remedied within a reasonable period set for that purpose;
  - b) The approval of the plan by the creditors' meeting or any subsequent ratification by the judge is manifestly implausible;
  - c) The plan is manifestly unenforceable.
2. The decision to admit the proposed recovery plan is not subject to appeal.

**Chapter II  
Approval and ratification**

**Section I  
Creditors' meeting**

**Article 109  
Creditors' meeting**

1. Upon closure of the NECRE, and once a plan has been submitted, the ARI shall convene a creditors' meeting, to be held within a maximum period of 30 days.
2. The notice shall be published on the BRI website.
3. The creditors' meeting, chaired by the ARI, is intended to discuss and vote on the recovery plan proposals or to decide on the declaration of insolvency of the debtor.

**Article 110**  
**Participation in the creditors' meeting**

1. All creditors of the estate, as verified by the BRI, pursuant to Article 92, as well as joint and several co-debtors or guarantors of the debtor who, pursuant to Article 60, cannot exercise their rights in the proceedings, have the right to participate in the creditors' meeting.
2. Holders of subordinated claims have the right to participate in the meeting, subject to the limitations set out in Article 113(3).
3. Creditors in the proceedings are not entitled to participate in the meeting.
4. Creditors may be represented by agents with special powers for that purpose.
5. Where necessary for the proper conduct of business, the ARI may limit participation in the meeting to holders of claims reaching a certain amount, which may not be set at more than US\$ 5,000, and the creditors affected may be represented by another whose claim is at least equal to the limit set or may group together to make up the required amount, participating through a common representative.
6. The debtor and its administrators have the right and duty to participate.
7. The Public Prosecutor's Office is also entitled to participate in the meeting.

**Article 111**  
**Suspension of the creditors' meeting**

The ARI may, exceptionally, decide to suspend the proceedings of the creditors' meeting, only once, determining that they be resumed within the following 15 days.

**Article 112**  
**Amendments to the recovery plan at the creditors' meeting**

The recovery plan may be amended at the creditors' meeting itself and put to the vote at the same session with the amendments introduced, provided that these, even if substantial in terms of particular aspects of regulation, do not conflict with the core or structure of the plan or with the purpose pursued.

**Article 113**

**Votes**

1. Claims, if already verified by a final decision, confer one vote for each dollar or fraction thereof.
2. The number of votes conferred per claim under a suspensive condition is set by the ARI, taking into account the probability of the condition being verified.
3. Claims with real guarantees that have the debtor's estate as their object, but where the debtor is not personally liable for the corresponding debts, shall confer one vote for each dollar of their amount or the value of the asset given as collateral, whichever is lower.
4. At the request of the interested party, the ARI may award votes to contested claims on which no final decision has yet been made, setting the respective amount, taking into account all relevant circumstances, namely the probability of the existence, amount and subordinate nature of the claim and, in the case of claims subject to a condition precedent, the probability of the condition being met.
5. The ARI's decision referred to in the previous paragraph may only be reviewed by the court in its ruling approving the creditors' meeting's decision.
6. The following do not confer voting rights:
  - a) Claims that are not modified by the operative part of the recovery plan;
  - b) Subordinated claims of a certain degree, if the plan decrees the full forgiveness of all claims of a lower degree and does not attribute any economic value to the debtor or its respective partners, associates or members, as the case may be.
7. The provisions of subparagraph a) of the previous paragraph shall cease to apply if, by application of that provision, in conjunction with that of subparagraph b), all claims would be deprived of the right to vote.
8. It is considered, in particular, that the recovery plan assigns value to the shareholders of a commercial company if the company is to continue operating and the plan does not provide for a reduction of its capital to zero.

**Article 114**  
**Voting on the recovery plan**

1. Voting on the recovery plan may be carried out in writing, in which case the vote must be received by the time the creditors' meeting begins, or in person at the meeting itself.
2. Written votes shall be sent to the ARI and may be changed until the meeting is held.

3. The ARI shall inform, whenever requested to do so by any 10 days after the date on which the result is declared by the ARI interested party, in particular the debtor, of the outcome of the and within a period not exceeding 20 days after that date. written votes received up to the time the information is requested.

4. The recovery plan shall be deemed to have been approved when it is voted in favour by creditors whose claims represent at least 65% of the total claims with voting rights, as contained in the list of claims drawn up in accordance with Article 92.

5. If the recovery plan includes a reduction in claims of more than 50% or a moratorium of more than five years, the plan shall only be deemed approved if it is voted in favour by creditors whose claims represent at least 75% of the total claims with voting rights, contained in the list of claims drawn up in accordance with Article 92.

6. For the purposes of the preceding paragraphs, abstentions shall not be taken into account in the calculation of votes cast.

7. If requested by one or more creditors at the meeting, the ARI may grant an additional period, not exceeding 10 days, for votes to be cast in writing, and the date and time for opening the votes shall be set immediately.

8. The written vote, addressed to the ARI, must contain the approval or rejection of the proposed recovery plan, with any proposal to modify the plan or condition the vote being equivalent to rejection of the plan.

#### **Article 115**

##### **Result of the creditors' meeting**

1. The ARI shall declare the result of the deliberation on the approval or rejection of the recovery plan, taking into account the provisions of the previous article and the reasons that may lead to the non-approval of the plan provided for in Articles 117 and 118.

2. The ARI shall send the decision on the plan to the court for approval.

3. The debtor or a creditor who did not vote in favour of the resolution that resulted in maturity may appeal to the court, stating the grounds on which they consider that the result declared by the ARI should have been different.

4. The common incidental proceeding regime applies to the appeal referred to in the previous paragraph.

#### **Section II**

##### **Approval of the decision of the creditors' meeting**

#### **Article 116**

##### **Deadline for approval**

The resolution of the creditors' meeting shall be approved by a ruling, which may only be handed down at least

#### **Article 117**

##### **Non-ex officio approval**

1. The judge shall automatically refuse to approve the recovery plan approved at the creditors' meeting in the event of a violation of procedural rules that influence the outcome of the vote or of rules applicable to its content, and also when, within a reasonable period of time established by the judge, the conditions precedent to the plan are not met or the acts or measures that must precede approval are not performed.

2. In the case of remediable defects, the judge may grant a period for the regularisation of the causes that constitute the basis for the refusal of approval.

1. The judge shall also refuse approval if requested to do so by any interested party who has expressed their opposition in the proceedings prior to the approval of the recovery plan, provided that the applicant demonstrates in plausible terms, alternatively, that:

a) Their situation under the plan is likely to be less favourable than it would be in the event of liquidation, either through fractional liquidation or through the sale of the company in operation, except as provided for in paragraph 4;

b) The plan provides any creditor with an economic value greater than the nominal amount of their claims, plus the value of any contributions they may have to make.

2. If the recovery plan has been amended at the creditors' meeting itself, those who were not present or represented are not required to express their opposition.

3. In the event of non-compliance with the requirement of the best interests of creditors test, provided for in paragraph 1(a), the judge shall request the BRI to determine the liquidation value.

4. Each category of creditors shall be bound by what is approved in the plan if the measure affecting them is voted in favour by at least 65% of the total votes corresponding to the affected category.

5. The provisions of the previous paragraph shall not apply to labour claims and tax claims.

#### **Article 119**

##### **Judgment**

1. The judgment approving the recovery plan shall determine the closure of the proceedings, unless the plan provides otherwise.

2. In the case of a ruling ratifying the decision of the creditors' meeting to reject the plan or refusing to ratify the decision to approve the plan, the court shall declare the debtor insolvent, determining the commencement of liquidation of the estate.

**Article 120.  
Publicity**

The ruling that ratifies or refuses to ratify the decision of the creditors' meeting shall be published on the BRI website.

**Chapter III  
Implementation of the recovery plan**

**Article 121  
General effects of the approval of the recovery plan**

1. With the approval of the recovery plan, the changes to the claims introduced by the plan take effect, regardless of whether such claims have been claimed and verified.
2. The approval ruling renders effective any legal acts or transactions provided for in the recovery plan, regardless of the form legally provided for, provided that the necessary declarations of intent by third parties and creditors who did not vote in favour or who, under the terms of the plan, should be issued after approval, but without the declarations of intent of the debtor whose consent is not mandatory under the provisions of this Code and of the new company or companies to be incorporated.
3. The homologation ruling constitutes, in particular, sufficient title for:
  - a) The incorporation of the new company or companies and the transfer to them of the assets and rights to be acquired, as well as the completion of the respective registrations;
  - b) The reduction of capital, increase of capital, amendment of the articles of association, transformation, exclusion of members and alteration of the governing bodies of the debtor company, as well as the completion of the respective registrations.
4. The measures provided for in the recovery plan affecting the debtor's liabilities shall not affect the existence or amount of the rights of creditors against co-debtors or third-party guarantors of the obligation, but these parties may only take action against the debtor by way of recourse, under the same terms as the creditor could exercise its rights against the debtor.

**Article 122.  
Failure to comply with the recovery plan**

1. Unless expressly provided otherwise in the recovery plan, the moratorium or forgiveness provided for in the plan shall be without effect:

- a) In respect of credit for which the debtor is in default, if the instalment, plus default interest, is not paid within 30 days of written notice by the creditor;
- b) With regard to all claims, if, before the plan has been fully implemented, the debtor is declared insolvent in new proceedings.

2. The debtor's default shall only have the effects provided for in subparagraph a) of the previous paragraph if it concerns claims verified in the proceedings.

3. The effects provided for in paragraph 1 may be associated by the plan with events of another type, provided that they occur within a maximum period of three years from the date of the approval judgment.

4. In the situation provided for in paragraph 1(a), the creditor may request the court to declare the debtor insolvent, to which the common incidental proceeding regime shall apply.

**Title VIII  
Declaration of insolvency and liquidation**

**Chapter I  
Declaration of insolvency and effects**

**Article 123 Declaration of insolvency**

1. The declaration of insolvency of the debtor is issued by the BRI, pursuant to Articles 30(2) and 99, or by the court, in accordance with Articles 119(2) and 122(4).
2. The declaration of insolvency shall be published and registered in accordance with Article 37, with the necessary adaptations.

**Article 124  
Effects on the insolvent party**

1. The declaration of insolvency shall immediately deprive the insolvent party, either personally or through its administrators, of the powers of administration and disposal of the assets forming part of the estate, which shall then fall to the ARI, which shall represent the insolvent party for all purposes of a patrimonial nature relevant to the proceedings, in particular representation in any proceedings in which matters of an exclusively patrimonial nature are discussed, without prejudice to the provisions of paragraphs 3 and 4 of Article 50.
2. The insolvent party is prohibited from assigning income or disposing of future assets that are subject to attachment, regardless of their nature, even if they are income obtained or assets acquired after the proceedings have been closed.
3. When the intention is to dispose of the company as a whole, the ARI may, at the request of the debtor or a creditor, maintain the powers of administration of the assets by the debtor, in which case the provisions of Articles 100 to 103 shall apply.

creditor, maintain the powers of administration of the assets by the debtor, in which case the provisions of Articles 49 and 52 shall apply.

4. The decision of the ARI referred to in the previous paragraph may be appealed to the court, which shall be assessed and decided in accordance with the rules of common incidental proceeding.

#### **Article 125**

##### **Effects on the members of the debtor's corporate bodies**

1. The members of the governing bodies of the corporate debtor shall cease their functions after the declaration of insolvency, unless, when it is intended to sell the company as a whole, the ARI decides otherwise, either ex officio or at the proposal of a creditor, and the members of the governing body agree to this.
2. The decision of the ARI referred to in the previous paragraph may be appealed to the court, which shall be heard and decided in accordance with the rules of ordinary incidental proceeding.

#### **Article 126**

##### **Effects on assets**

1. Except where the debtor remains in charge of the administration of the assets, pursuant to Article 124(3), once the declaration of insolvency has been made, the ARI shall immediately seize all assets forming part of the estate, even if they have been:
  - a) Seized, pledged or in any way seized or detained, in any proceedings, with the sole exception of those that have been seized due to an offence, whether of a criminal nature or merely a social order offence;
  - b) Assigned to creditors, pursuant to Articles 766 et seq. of the Civil Code.
2. If the goods have already been sold, the seizure shall apply to the proceeds of the sale.

#### **Article 127**

##### **Delivery of seized assets**

1. Except where the debtor remains in charge of the assets, pursuant to Article 124(3), the power of seizure results from the declaration of insolvency, and the ARI shall take steps, without prejudice to the provisions of Article 713 of the Code of Civil Procedure, to ensure that the assets are immediately delivered to it, so that it may become the depositary thereof, with the deposit being governed by the general rules and, in particular, by those governing the judicial deposit of seized assets.
2. The seizure shall be carried out by the ARI, assisted by the BRI and, where appropriate, in the presence of the insolvent party.

3. The seizure report shall be signed by those who witnessed the procedure and by the possessor or holder of the seized assets or, where the latter is unable or unwilling to sign, by two witnesses who can be called upon.

4. When faced with opposition or resistance to seizure, the ARI may request the assistance of law enforcement, in which case it is lawful to break down doors or safes and draw up a report of the incident.

5. The ARI may also, whenever it encounters difficulties in seizing the assets, request the court to order the necessary measures to be taken for this purpose.

6. The ARI must draw up a list of the seized assets, with their description and valuation.

7. The sums received in cash by the ARI, except for those strictly necessary for current administrative expenses, must be immediately deposited in a credit institution, in a bank account opened in the name of the BRI.

#### **Article 128**

##### **Effects on legal and arbitration proceedings**

1. Once insolvency has been declared, the ARI shall replace the insolvent party and shall have exclusive standing to bring and pursue all actions brought on behalf of and against the insolvent party in which issues relating to assets included in the estate are considered and whose outcome may influence their value.
2. Legal and arbitration proceedings shall run their course in the respective courts.

#### **Article 129.**

##### **Termination of enforcement proceedings**

Enforcement proceedings suspended under Article 56 shall be terminated, with regard to the insolvent debtor, as soon as the PRI is closed after the final apportionment, except for the purposes of exercising the right of reversal provided for by law with regard to tax debts.

#### **Article 130**

##### **Effects on recognised claims**

1. Except where the debtor, pursuant to Articles 141 and 142, remains in charge of the administration of his assets, the declaration of insolvency shall determine the maturity of all the obligations of the insolvent party, with the exception of tax obligations and those subject to a condition precedent.
2. With the early maturity of the obligation arising from the declaration of insolvency, the amount of the credit shall be deducted from the amount calculated on the basis of the applicable legal rate, corresponding to the amount of interest relating to the period of early maturity.
3. In the case of a fractioned obligation, the provisions of the previous paragraph shall apply to each of the instalments

not yet due.

**Effects of revocation of the declaration of insolvency**

4. When calculating the advance payment period, it is assumed that the due date would be the date on which the obligations became due or when this was likely to occur, this date being indeterminate.

The revocation of the declaration of insolvency shall not affect the effects of acts lawfully performed by the ARI.

**Article 131.  
Suspension of the right of retention**

1. The declaration of insolvency determines the suspension of the exercise of the right of retention over the assets of the estate and integral rights, without prejudice to the provisions of tax, labour and social security legislation.
2. After the proceedings have been closed, if such assets and rights have not been disposed of, they shall be immediately returned to the holder of the right of retention whose claim has not been fully satisfied.

The decision to reject the declaration of insolvency issued by the BRI may be appealed to the court, which shall follow the terms of the common incidental proceeding.

**Article 136  
Appeal against the decision to reject**

**Chapter III  
Liquidation**

**Article 137  
Start of the liquidation phase**

The declaration of insolvency marks the start of the liquidation phase, with the debtor being designated as insolvent.

**Chapter II  
Appeal against the declaration of insolvency**

**Article 132  
Appeal against the declaration of insolvency**

1. The declaration of insolvency issued by the BRI or the court is always subject to appeal.
2. If appeals are lodged by several entities, they shall all be dealt with in a single proceeding.
3. An appeal against the declaration of insolvency suspends the liquidation and distribution of the estate, without prejudice to the provisions of Article 142(2).

**Article 133  
Appeal against the decision issued by the BRI**

1. The appeal against the declaration of insolvency issued by the BRI shall follow the rules governing common incidental proceedings, with the specificities provided for in the following paragraphs.
2. The appeal may be based on facts or evidence that have not been previously taken into account and that may invalidate the grounds for the declaration of insolvency, as well as on the allegation that, in view of the evidence gathered, it should not have been issued.
3. The court must issue its decision within 30 days.
4. The court's decision is final.
5. Once the decision has become final, the court shall order that the case be referred to the BRI.

**Article 134  
Appeal against the court's decision**

Appeals against the court's decision declaring insolvency shall be governed by the rules on appeals laid down in Article 19.

**Article 135**

**Article 138  
Liquidation plan**

1. Within 15 days of the declaration of insolvency, the ARI shall submit to the BRI a liquidation plan for the assets and rights comprising the estate.
2. The liquidation plan shall contain:
  - a) The inventory referred to in Article 140;
  - b) The list of recognised claims and their ranking;
  - c) An opinion on the accounting and financial reporting and information documents;
  - d) An opinion on the method of disposal, taking into account the provisions of the following article;
  - e) Any other elements or additional information that, in its opinion, may be relevant for the further conduct of the proceedings.
3. If the complexity of the case so warrants, the ARI may request the BRI, on a one-off basis, to extend the deadline for submitting the liquidation plan.
4. The liquidation plan shall be filed with the BRI and its filing shall be published on the BRI website, with reference to the provisions of Article 141(1).

**Article 139  
Sale of the company as a whole**

1. The company included in the estate is sold as a whole, unless there is no satisfactory offer or if advantages are recognised in the liquidation or separate sale of certain parts.
2. In the event of disposal of the company as a whole:

- a) The transfer of the insolvent party's legal positions related to the company's activity does not depend on the consent of the counterparty;
- b) Licences relating to the exercise of the company's activity are transferred to the ownership of the purchaser;
- c) Debts relating to the operation of the company are not transferred to the purchaser of the company.

**Article 140  
Inventory**

1. The ARI updates the inventory of the assets and rights that make up the estate, indicating their value, nature, characteristics, location, encumbrances and registration details, if applicable.
2. If the values of the assets or rights differ depending on whether or not the debtor's activity continues, the ARI shall record both values in the inventory.
3. In the event of particular difficulty in valuing the assets and rights, the ARI may request the services of experts.
4. The inventory shall include a list of all disputes whose outcome may affect its content, indicating the parties involved, the subject matter of the disputes and the values involved.

**Article 141  
Assessment of the liquidation plan**

1. After the liquidation plan has been submitted, the insolvent party and the creditors have 10 days to make comments or propose amendments.
2. Once the period referred to in the previous paragraph has elapsed, the BRI shall also have 10 days to approve the plan as proposed by the ARI, with any amendments it deems appropriate.
3. Any creditor or group of creditors whose claims represent at least one-fifth of the total unsubordinated claims may, if they disagree with the liquidation plan approved by the BRI, appeal to the court.
4. The appeal referred to in the previous paragraph shall follow the terms of the common incidental proceeding.

**Article 142.  
Commencement of the sale of assets**

1. Once the declaration of insolvency has become final and the final decision on the liquidation plan has been made, the ARI shall promptly proceed with the sale of all assets seized for the estate, unless the plan provides for a different solution.
2. However, the ARI shall promote the early sale of assets that cannot or should not be kept because they are subject to deterioration or depreciation.

**Article 143.  
Joint ownership and indivisibility**

Once the right to restitution or separation of indivisible assets has been verified or the existence of assets of which the insolvent party is co-owner has been established, only the debtor's rights in those assets shall be subject to liquidation in the proceedings.

**Article 144  
Assets of disputed ownership**

If a claim or request for restitution or separation is pending in relation to assets seized for the estate, these assets shall not be liquidated until a final decision has been made, except in the case of early sale or when the interested party, author or applicant for the action has given their consent.

**Article 145.  
Need for consent**

1. The performance of legal acts by the ARI that are of particular importance to the proceedings is subject to the consent of the BRI.
2. In classifying an act as of particular importance, consideration shall be given to the risks involved and their repercussions on the further proceedings and the prospects of satisfying the creditors of the insolvent party.
3. Acts of particular importance include, in particular:
  - a) The sale of the company, its establishments or all of its stock;
  - b) The disposal of any company asset for a price equal to or greater than US\$ 10,000 and representing at least 10% of the value of the assets.

**Article 146.  
Methods of disposal**

1. The ARI, with regard to the method of disposal of assets, must follow the rules set out in the enforcement proceedings, unless, on reasonable grounds and with the authorisation of the BRI, another solution is deemed more appropriate for the case.
2. The creditor with a security interest in the asset to be disposed of shall always be heard on the method of disposal and informed of the base value set or the price of the disposal projected to the entity determined.
3. If, within 10 days, or later but in good time, the secured creditor proposes to purchase the asset, either by itself or through a third party, at a price higher than the projected sale price or the fixed base value, the ARI, if it does not accept the proposal, is obliged to place the creditor in the situation that would result from the sale at that price, if it were to occur at a lower price.

4. The proposal referred to in the previous paragraph shall only be effective if accompanied by a deposit or payment, in favour of the estate, in the amount of 20% of the proposal.

5. If the asset has been given as collateral for a third party's debt,

not yet due and for which the insolvent party is not personally liable, the disposal may take place with that encumbrance, unless this prejudices the satisfaction of a claim with a prevailing guarantee, already due or in respect of which that personal liability exists.

**Article 147.  
Ineffectiveness of acts**

Violation of the provisions of the preceding articles shall render the acts of the ARI ineffective.

**Article 148  
Secured and preferential creditors**

The provisions on the exercise of respective rights in judicial sales shall apply to secured creditors who acquire assets included in the estate and to holders of legal or contractual preferential rights with real effect.

**Article 149  
Deposit of the proceeds of liquidation**

1. As the liquidation proceeds, the proceeds shall be deposited to the order of the estate in a bank account opened in the name of the BRI.
2. The movement of the deposit made, regardless of its type, can only be carried out with the authorisation of the BRI for the act.
3. Whenever relatively long periods of immobilisation of deposited funds are anticipated, they must be invested in risk-free forms and with the prior approval of the BRI.

**Article 150.  
Prohibition on acquisition**

1. The ARI may not acquire, directly or through an intermediary, any assets or rights included in the estate, regardless of the type.
2. Any ARI who violates the provisions of the previous paragraph shall be dismissed for just cause and shall return the unlawfully acquired asset or right to the estate, without the right to recover the payment made.
3. The provisions of paragraph 1 shall apply to any BRI employee who, by performing the acts referred to in that paragraph, incurs disciplinary liability and shall also be obliged to return the unlawfully acquired asset or right to the estate, without the right to recover the payment made.

**Article 151 Duty to provide information**

1. At the end of each three-month period, counted from the start of the liquidation, the ARI shall provide the BRI with detailed information on the status of the liquidation and the steps taken.
2. The document referred to in the previous paragraph shall be filed with the BRI and made available for consultation by all creditors.
3. Unjustified failure to comply with the duty referred to in the preceding paragraphs shall constitute just cause for dismissal of the ARI.

**Article 152  
Deadline for closing the liquidation**

1 The deadline for closing the liquidation is six months from the date of the final decision declaring insolvency.

2. The deadline for closing the proceedings may, however, be extended by the BRI for periods of six months, if there are reasons that justify the extension.
3. At the request of any interested party, the judge shall order the dismissal, with just cause, of the ARI if the insolvency proceedings are not closed within the period specified in the preceding paragraphs.

**Chapter IV  
Payment to creditors**

**Article 153  
Payment of debts in the proceedings**

1. Before proceeding with the payment of claims on the estate, the ARI shall deduct from it the assets or rights necessary to satisfy the debts of the proceedings, including those that are likely to arise until the proceedings are closed.
2. The debts of the proceedings, which take precedence over the others, shall be paid on their respective due dates, regardless of the status of the proceedings.
3. The payment of the debts in the proceedings, which must be made proportionally between them, is effected, first, through the income from the estate and, if it cannot be settled by this means, through the proceeds from the sale of the assets that make up the estate.
4. In the case of assets subject to real guarantees, the allocation to the payment of the debts of the proceedings shall not exceed 10% of the proceeds from the sale of such assets.
5. However, the limit referred to in the previous paragraph shall not apply if the amount exceeding that limit is indispensable for the full satisfaction of the debts of the proceedings or if it does not prejudice the full payment of the secured claims.
6. Where separation and restitution of assets that have already been liquidated are requested, they shall be kept in deposit

and excluded from payments to and from the estate, until such claim is finally decided, an amount equal to the proceeds of the sale, which may be determined, or, where this is not possible, to the value stated in the inventory, the provisions of Article 161(2) being applicable, with the necessary adaptations.

**Article 154**  
**Payment of claims on the estate**

The payment of claims on the estate shall only cover those that have already been definitively verified.

**Article 155**  
**Payment of labour claims**

Without prejudice to the provisions of Article 153, the first claims to be paid are the labour claims provided for in Article 74.

**Article 156**  
**Payment to secured creditors**

1. Except for the payments referred to in the previous article, once the assets encumbered with security interests have been liquidated and the corresponding expenses deducted, payment shall be made immediately to secured creditors, in accordance with their priority.
2. If, as a result of the operation referred to in the previous paragraph, there are secured claims that are not paid in full and for which the debtor is liable with all of his assets, the respective balances shall be included among the common claims.
3. Prior to the sale of the assets, the estimated balance recognised as ordinary credit is taken into account in the apportionments made between ordinary creditors, but the corresponding amount is not paid to the secured creditor until its actual balance is determined after the sale of the assets.
4. The payment of a third party debt that is not yet due and that is secured by an asset that is part of the estate, but for which the insolvent party is not liable, is subject to the following rules:
  - a) It shall not be made if the asset has been sold, maintaining the guarantee on it, or if the respective holder waives the guarantee;
  - b) It may not exceed the amount of the debt, updated to the date of payment by application of Article 130(2);
  - c) Subrogation to the rights of the creditor shall apply in proportion to the amount paid in relation to the amount of the debt, adjusted in accordance with the terms referred to in the previous paragraph.

**Article 157**  
**Payment to privileged creditors**

1. The payment of privileged claims shall be made

proportionally from the assets not allocated to the payment of secured claims, in accordance with their priority.

2. The provisions of paragraphs 2 and 3 of the previous article shall apply, with the necessary adaptations.

**Article 158**  
**Payment to ordinary creditors**

Payment to ordinary creditors shall be made in proportion to their claims if the assets are insufficient to satisfy them in full.

**Article 159**  
**Payment to subordinated creditors**

1. Subordinated claims shall only be paid after ordinary claims have been satisfied in full and shall be paid in the order in which they are listed in Article 78, in proportion to their respective amounts, if the assets are insufficient to pay them in full.
2. In the event of agreed subordination, the parties may assign the claim a lower priority than that resulting from Article 78.

**Article 160**  
**Partial apportionments**

1. Whenever there are amounts on deposit that ensure a distribution of not less than 5% of the value of privileged, common or subordinated claims, the ARI shall submit to the BRI the plan and schedule of apportionment that it considers should be carried out.
2. The BRI shall decide on the payments it considers justified.

**Article 161**  
**Payment in the case of joint and several debtors**

1. Where, in addition to the insolvent party, another joint debtor is in the same situation, the creditor shall not receive any amount without presenting a certificate proving the amounts received in the insolvency proceedings of the other debtors.
2. The ARI shall notify the other insolvency proceedings of the payments made in the proceedings.
3. An insolvent joint debtor who only partially settles the debt cannot be paid in the insolvency proceedings of the co-debtors without the creditor being fully satisfied.

**Article 162.**  
**Precautionary measures**

1. If there is an appeal against the BRI's decision on the verification and ranking of recognised claims, the appellants' claims shall be considered conditionally verified, up to the maximum amount that may result from

the hearing thereof, for the purpose of being included in the apportionments to be made, but the corresponding amount shall not be paid to them until the final decision on the appeal.

2. Anyone who, by means of the appeal, has prevented the withdrawal of any amount and subsequently loses the appeal shall compensate the injured creditors by paying default interest at the legal rates on the delayed amount, from the date of the apportionment in which it was included.

#### **Article 163**

##### **Claims subject to a condition precedent**

1. Claims under suspensive conditions are paid at their nominal value in partial apportionments, but the amounts allocated to them must remain deposited pending fulfilment of the condition.
2. In the final apportionment, however, if the condition is not fulfilled:
  - a) Claims that are devoid of any value due to the manifest improbability of the condition being met shall not be honoured, in which case the amounts deposited under the terms of the previous paragraph shall be apportioned among the other creditors;
  - b) If the situation described in the previous paragraph does not occur, the ARI shall deposit with a credit institution, at the order of the BRI, the amount corresponding to the nominal value of the credit to be delivered to the holder, once the condition precedent has been fulfilled, or apportioned among the other creditors, after it has been established that such verification is impossible.

#### **Article 164**

##### **Final apportionment**

1. Once the liquidation of the portfolio has been completed, ARI submits a proposal for distribution and final apportionment to the BRI, accompanied by the relevant supporting documentation.
2. The final distribution and apportionment are carried out by the BRI.
3. The closure of the liquidation is not affected by the fact that the insolvent party's activity generates income that would add to the assets.
4. Any surplus from the liquidation that does not even cover the apportionment expenses is allocated to the State.

#### **Article 165**

##### **Payment and limitation period**

1. All payments shall be made by the ARI, without the need for a request from the creditor, in accordance with the provisions of Article 149(2).

2. If, within one year from the date of notification to the creditor, payment is not requested from the BRI or the cheque issued for that purpose is not presented for payment, the respective claims shall lapse and the amounts shall revert to the State.

#### **Article 166**

##### **Remaining Amount**

1. If the proceeds of the liquidation are sufficient to pay all the claims on the proceedings and on the assets, the balance shall be delivered to the debtor by the ARI.
2. If the debtor is not a natural person, the ARI shall deliver to the persons participating in it the part of the balance that would belong to them if the liquidation were carried out outside the insolvency proceedings or shall comply with any other legal or statutory provisions in this regard.

### **Title IX Special incidents**

#### **Chapter I**

##### **Qualification of the situation of insolvency**

#### **Article 167**

##### **Types of insolvency**

1. Insolvency is considered to be fortuitous unless the court, at the request of the ARI or any creditor, qualifies it as culpable.
2. The classification given is not binding for the purposes of decisions in criminal cases or liability actions against the debtor or its directors.

#### **Article 168**

##### **Culpable insolvency**

1. Insolvency is culpable when the debtor's financial situation has been created or aggravated as a result of wilful misconduct or gross negligence on the part of the debtor or its directors, de jure or de facto, in the two years prior to the commencement of the PRI.
2. The insolvency of a debtor who is not a natural person shall always be considered culpable when its administrators, de jure or de facto, have:
  - a) Destroyed, damaged, rendered useless, concealed or caused to disappear, in whole or in a considerable part, the debtor's estate;
  - b) Artificially created or aggravated liabilities or losses or reduced profits, in particular by entering into ruinous transactions for their own benefit or for the benefit of persons specially related to them;
  - c) Disposing of the debtor's estate for personal gain or for the benefit of third parties and to the considerable detriment of the company;
  - d) Exercising, under the cover of the company's legal personality, if applicable, an activity for personal gain or for the benefit of third parties and to the

considerable detriment of the company;

- e) Use of the debtor's credit or assets contrary to the debtor's interests, for personal gain or for the benefit of third parties,

namely to favour another company in which they have a direct or indirect interest.

- 3. Unless proven otherwise, the debtor who is not a natural person shall be presumed to be culpably insolvent when its directors, de jure or de facto, have:

- a) Failed to comply with the duty to apply for the opening of proceedings;
- b) Repeatedly failing to comply with the duty to cooperate with the judge, the ARI or creditors, or failing to provide them with the information necessary or appropriate for the interests of the proceedings;
- c) Purchased goods on credit, reselling them or delivering them in payment at a price substantially lower than the current price, before the obligation was satisfied;
- d) Continued, in their own interest or that of a third party, a loss-making business, despite knowing or ought to have known that this would most likely lead to insolvency;
- e) Substantially failed to comply with the obligation to keep organised accounts, kept fictitious accounts or double accounts, or committed irregularities, in particular by failing to prepare or file annual accounts, thereby significantly impairing the understanding of the debtor's financial position;
- f) Failed to comply with the duty to prepare and submit annual accounts as provided for in Article 48(4).

- 4. The provisions of paragraphs 2 and 3 shall apply, with the necessary adaptations, to the actions of insolvent natural persons and their administrators, where the diversity of situations does not preclude this.

**Article 169  
Procedure**

- 1. Up to 15 days after the declaration of insolvency, the ARI may request, in writing, in an application filed as an attachment, that the insolvency be declared culpable.
- 2. Any creditor may submit evidence to the ARI for the purposes set out in the previous paragraph.
- 3. The applicant must allege the facts that they consider to be grounds for classifying the insolvency as culpable and indicate the persons who should be affected by such classification.
- 4. The judge, if there are no grounds for preliminary dismissal, shall declare, by order, that the incident of qualification of the insolvency situation is open.
- 5. The order referred to in the previous paragraph is not

subject to appeal and shall be published immediately on the BRI portal.

- 6. Once the incident has been declared open, the ARI shall, within 20 days, unless a longer period is set by the judge, submit a duly substantiated and documented opinion on the relevant facts, concluding with a proposal for classification, and shall also identify, where applicable, the persons who should be affected by the classification of the insolvency situation as culpable.
- 7. The ARI's opinion and the applicant's allegations are sent to the Public Prosecutor's Office for a decision within 10 days.
- 8. Once the opinion of the Public Prosecutor's Office has been received, the judge shall immediately order the debtor to be personally notified and summon those who, in his opinion, should be affected by the classification of the insolvency situation as culpable to oppose it, if they so wish, within 15 days.
- 9. The notification and summons referred to in the previous paragraph shall be accompanied by the opinions of the ARI and the Public Prosecutor's Office and the documents supporting them.
- 10. The ARI, the Public Prosecutor's Office and any creditor who takes a position contrary to the objections referred to in paragraph 8 may respond to them within 10 days of the expiry of the period referred to in that paragraph.
- 11. The rules governing common incidental proceedings shall apply, *mutatis mutandis*, to the insolvency qualification incident.

**Article 170  
Qualification ruling**

- 1. The court shall always issue a ruling on the qualification of the insolvency situation.
- 2. If the qualification of the insolvency as culpable is not requested, as provided for in the previous article, the court shall qualify the insolvency situation as fortuitous.
- 3. If the insolvency situation is declared to be culpable, the judge shall:
  - a) Identify the persons affected by the qualification, namely the debtor or its administrators, de jure or de facto, as well as the persons referred to in paragraph 5, establishing, where applicable, the respective degree of fault;
  - b) Determine the loss of any claims on the assets or proceedings held by the persons affected by the qualification and order them to return the assets or rights already received in payment of those claims;
  - c) Order the persons affected to compensate the losses caused to the debtor's creditors, with joint and several liability among all those affected;

d) Decree the disqualification of the persons affected from administering the assets of third parties for a period of two to 10 years;

e) Declare these persons disqualified from engaging in any business activity for a period of two to ten years, as well as from holding any position as a member of a commercial or civil company, association or private foundation engaged in economic activity, public company or cooperative.

4. The effects of the qualification sentence are registered ex officio by the BRI.

5. Persons who, with intent or gross negligence, cooperated with the debtor or its directors in carrying out any act that gave rise to that classification may also be covered by the classification of the insolvency situation as culpable, in particular certified public accountants and statutory auditors.

6. When applying the provisions of paragraph 3(c), the judge shall set the amount of compensation due or, if this is not possible because the court does not have the necessary information to calculate the amount of the losses suffered, the criteria to be used for its quantification, to be carried out in the settlement of the judgment.

7. In the sentencing, the judge shall advise the persons affected by the sentencing of the provisions of Article 244(1)(b) of the Penal Code.

**Chapter II  
Discharge of remaining liabilities**

**Article 171  
Request for discharge of remaining liabilities**

1. If the debtor is a natural person, he or she may be granted exemption from claims on the estate that are not paid in full in the PRI or within five years of its closure, in accordance with this title.

2. The application for discharge of remaining liabilities shall be filed with the court by the debtor within 15 days of the final decision classifying the insolvency as fortuitous.

3. The judge shall decide freely on the admission or rejection of any request submitted after this period.

4. The application must expressly state that the debtor meets the requirements and is willing to comply with all the conditions set out in the following articles.

**Article 172.  
Preliminary rejection**

The request for dismissal shall be denied if:

- a) There is a final decision qualifying the debtor as at fault;
- b) The debtor has already benefited from the discharge of the remaining debt in the 10 years prior to the date of assigned to the ARI, under the terms and for the purposes of the

commencement of the PRI;

c) The debtor has been convicted by a final judgment for any of the crimes provided for and punished in Articles 276 and 277 of the Penal Code in the 10 years prior to the date of commencement of the proceedings or after that date.

**Article 173.  
Subsequent proceedings**

1. If there are no grounds for preliminary dismissal under the provisions of the previous article, the judge shall notify the ARI and the creditors, by publication on the BRI portal, to make their representations, if they so wish, within 10 days.

2. Where the insolvency has been classified as fortuitous under Article 170(2), the court may reject the application for discharge where:

a) The debtor, with intent or gross negligence, has provided false or incomplete information in writing about their economic circumstances in the three years prior to the date of commencement of the proceedings, with a view to obtaining credit or subsidies from public institutions or in order to avoid payments to such institutions;

b) The debtor has failed to comply with the duty of disclosure and this delay has aggravated the situation of insolvency, to the detriment of creditors;

c) There is already evidence in the proceedings or evidence is provided by the creditors or the ARI at the time of the decision that indicates with all probability that the debtor is at fault for creating or aggravating the insolvency situation;

d) The debtor, with intent or gross negligence, has violated the duties of information, presentation, and cooperation that result for him from this Code during the course of the PRI.

**Article 174  
Initial order of discharge**

If there are no grounds for rejecting the request for discharge, the judge shall issue an initial order declaring that it will be granted, provided that the debtor complies with the conditions set out in the following article during the five years following the closure of the proceedings.

**Article 175  
Assignment of disposable income**

1. The initial discharge order shall determine that, during the five years following the closure of the PRI, in this chapter referred to as the assignment period, the

disposable income earned by the debtor shall be deemed to be assigned to the ARI, under the terms and for the purposes of the

following article.

2. Without prejudice to the provisions of the following paragraph, disposable income includes all income that accrues to the debtor for any reason.
3. Disposable income shall not include any income that is reasonably necessary for:
  - a) The minimum decent livelihood of the debtor and his household, which shall not be less than the national minimum wage, nor exceed, unless otherwise decided by the judge, three times the national minimum wage;
  - b) The debtor's exercise of their professional activity;
  - c) Other expenses reserved by the judge in the initial order or at a later date, at the request of the debtor.
4. During the assignment period, the debtor is also obliged to:
  - a) Not to conceal or hide any income received, for any reason, and to inform the court and the ARI of their income and assets in the manner and within the time limit requested;
  - b) Engage in gainful employment, not abandoning it without legitimate reason, and diligently seek such employment when unemployed, not unreasonably refusing any job for which he or she is qualified;
  - c) Immediately deliver to the ARI, upon receipt, the portion of their income subject to assignment;
  - d) Inform the court and the ARI of any change of address or employment conditions within 10 days of the respective occurrence, as well as, when requested and within the same period, of the steps taken to obtain employment;
  - e) Not to make any payments to creditors of the estate, except through the ARI, and not to create any special advantage for any of these creditors.
5. The assignment provided for in paragraph 1 shall prevail over any agreements that exclude, condition or in any way limit the assignment of the debtor's estate or income.
6. If an appeal is lodged against the initial discharge order, the final apportionment shall only determine the closure of the proceedings after the decision has become final.

**Article 176  
Functions of the ARI**

1. The ARI shall notify the assignment of the debtor's income to those

of those to whom he is entitled and affects the amounts received at the end of each year during which the assignment lasts:

- a) To the payment of any outstanding PRI costs;
  - b) The distribution of the remainder to the creditors of the estate, under the terms prescribed for payment to creditors in this Code.
2. The ARI shall monitor the debtor's compliance with his obligations, with the duty to inform the BRI, the creditors and the court in the event of any violation.
  3. The ARI shall submit annually to the judge a document with brief information on the status of the assignment of income.

**Article 177  
Equality of creditors**

1. No enforcement proceedings may be brought against the debtor's estate to satisfy claims on the estate prior to the date of the declaration of the opening of proceedings during the assignment period.
2. The granting of special advantages to a creditor of the estate by the debtor or by a third party shall be null and void.
3. Offsetting claims on the estate against debts owed to the debtor is only lawful under the conditions that would be admissible during the pendency of the proceedings.

**Article 178  
Early termination of the discharge procedure**

1. Even before the end of the assignment period, the judge shall refuse the discharge, upon reasoned request by any creditor of the estate or the ARI, when:
  - a) The debtor has wilfully or through gross negligence breached any of the obligations imposed on him by Article 175, thereby prejudicing the satisfaction of claims on the estate;
  - b) If any of the circumstances referred to in Article 172 or in Article 173(2)(a), (c) and (d) are found to exist, if they only became known to the applicant after the initial order or if they are subsequently verified;
  - c) The decision on the incidental proceeding to determine the state of insolvency has concluded that the debtor is at fault for creating or aggravating that situation.
2. The application may only be submitted within one year of the date on which the applicant became aware or could have become aware of the grounds invoked, and the relevant evidence must be provided immediately.
3. Where the application is based on subparagraphs (a) and (b) of paragraph

1. the judge shall hear the debtor, the ARI and the creditors of the estate before deciding the matter.

4. The discharge shall be refused if the debtor, without reasonable cause, fails to provide, within the time limit set, information proving compliance with his obligations or, having been duly summoned, fails to appear without justification at the hearing at which he was to provide such information.
5. The judge, either ex officio or at the request of the debtor or the ARI, shall also declare the incident closed as soon as all claims on the estate have been satisfied in full.

**Article 179**  
**Final decision on discharge**

1. If there has been no early termination, the judge shall decide within 10 days of the end of the assignment period whether revocation of discharge shall be published on the BRI's or not to grant discharge of the debtor's remaining liabilities, after hearing the debtor, the ARI and the creditors of the estate.
2. The notification of the interested parties referred to in the previous paragraph shall be made by publication on the BRI portal.
3. The discharge shall be refused on the same grounds and subject to the same requirements as those that could have been applied in advance, in accordance with the previous article.

**Article 180**  
**Effects of discharge**

1. The discharge of the debtor entails the extinction of all claims on the estate that remain outstanding on the date on which it is granted, without exception for those that have not been claimed and verified, and the provisions of Article 121(4) shall apply.
2. However, the discharge does not cover:
  - a) Claims for maintenance;
  - b) Compensation due for intentional unlawful acts committed by the debtor that have been claimed as such;
  - c) Claims for fines, penalties and other financial penalties for crimes or administrative offences;
  - d) Tax claims.

**Article 181**  
**Revocation of the final decision to discharge**

1. The final decision to discharge the remaining liabilities shall be revoked if it is proven that the debtor has incurred any of the situations provided for in Articles 172 and 173(2), or has wilfully violated its obligations during the assignment period and, for any of these reasons, has significantly prejudiced the satisfaction of the creditors of the estate.

2. Revocation may only be requested until the end of the year following the final decision on the discharge order.

3. If the applicant is a creditor of the estate, they must also prove that they were unaware of the grounds for revocation until the moment of transfer.
4. Before deciding on the matter, the judge must hear the debtor and the ARI.
5. The revocation of the discharge entails the reconstitution of all extinguished claims.

**Article 182.**  
**Publicity and registration**

The initial orders, orders for discharge, early termination and orders for revocation of discharge shall be published on the BRI's electronic portal and registered in accordance with Article 37, with the necessary adaptations.

**Title X**  
**Closure of proceedings**

**Article 183.**  
**When the proceedings are closed**

1. The ARI shall declare the proceedings closed:
  - a) After the final apportionment has been made, without prejudice to the provisions of Article 175(1);
  - b) After the final approval of the recovery plan, if there is no opposition to its content;
  - c) At the request of the insolvent party, when they are no longer in a situation of insolvency or all creditors give their consent.
2. The decision to close the proceedings shall be notified to creditors by publication on the BRI website, in accordance with Article 37, stating the reason for the decision.
3. Within 10 days of the closure, the ARI shall deliver to the BRI, for filing, all documentation relating to the proceedings in its possession, as well as the debtor's accounting records that are not to be returned to the debtor, and shall register them in accordance with the provisions of Article 37, indicating the determining reason.

**Article 184**  
**Closure of proceedings after final apportionment**

1. Once the proceedings have been closed, after the final apportionment has been made, the legal person shall be deemed to have been dissolved.
2. In the case of a natural person:
  - a) All effects resulting from the declaration of the opening of proceedings shall cease, and the debtor shall recover the right to dispose of his assets and freely manage his business, without prejudice to the

effects of the classification of the insolvency as culpable; if the closure is based on Article 183(1)(c).

- b) With regard to the decision on the discharge of the remaining liabilities, creditors may exercise their rights against the debtor without any restrictions other than those contained in the recovery plan, if any, the judgment approving the plan, as well as the judgment verifying the claims or the decision rendered in a subsequent verification action, in conjunction, if applicable, constituting an enforceable title for this purpose;
- c) Creditors may claim their unsatisfied rights from the debtor.

**Article 185**

**Closure of proceedings with the approval of the recovery plan**

The final judgment approving the recovery plan determines the closure of the proceedings, without prejudice to the regime provided for in the event of non-compliance.

**Article 186**

**Closure at the request of the insolvent party**

1. The insolvent party's request to close the proceedings on the grounds that the insolvency situation has ceased shall be notified to the ARI and to the creditors by publication on the BRI portal, so that they may, if they wish, lodge an objection within 10 days.
2. The provisions of Article 17(5) shall apply to the insolvent party's request and to any objections.
3. The insolvent party's request that is not based on the cessation of the insolvency situation shall be accompanied by documents proving the consent of all creditors who have claimed their claims, when submitted after the deadline granted for that purpose, or of all recognised creditors, in the opposite case.
4. If there are no grounds for preliminary rejection, the BRI shall take the steps it deems necessary to decide on the request.
5. The BRI's decision may be appealed to the court, to which the terms of the common incidental proceeding apply.

**Article 187**

**Effects on commercial companies**

1. Based on the closure of the proceedings upon approval of a recovery plan that provides for the continuity of the commercial company, the latter resumes its activity regardless of any decision by the partners.
2. The shareholders must, however, decide on the resumption of activity

**Title XI**

**Conflict rules and foreign insolvency proceedings**

**Chapter I**

**Conflict rules**

**Article 188**

**Prevalence of other rules**

The provisions of this Title shall apply insofar as they do not conflict with the provisions of international treaties.

**Article 189**

**General principle**

Unless otherwise provided, the PRI and its effects shall be governed by the law of the State of Timor-Leste.

**Article 190**

**Labour relations**

The effects of the declaration of commencement of proceedings on employment contracts and labour relations shall be governed exclusively by the law applicable to the employment contract.

**Article 191**

**Debtor's rights over immovable property and other assets subject to registration**

The effects of the declaration of the opening of proceedings on the debtor's rights in respect of immovable property, a ship or an aircraft which must be registered in a public register shall be governed by the law of the State under whose authority that register is kept.

**Article 192**

**Contracts relating to immovable property and movable property subject to registration**

1. The effects of the declaration of commencement of proceedings on contracts conferring the right to acquire rights in rem over immovable property or the right to use such property shall be governed exclusively by the law of the State in whose territory that property is situated.
2. With regard to contracts relating to a ship or aircraft that must be entered in a public register, the law of the State under whose authority that register is kept shall apply.

**Article 193**

**Real rights and retention of title**

1. The effects of the declaration of the opening of proceedings on the rights in rem of creditors or third parties in respect of tangible or intangible, movable or immovable assets, whether specific assets or sets of indeterminate assets considered as a whole, the composition of which may change over time, belonging to the debtor and which, at the time of the opening of

proceedings, are located in the territory of another State, shall be governed exclusively by the law of that State.

composition may change over time, belonging to the debtor and which, at the time of the opening of proceedings, are located in the territory of another State, shall be governed exclusively by the law of that State.

2. The provisions of the previous paragraph shall also apply to the rights of the seller in relation to goods sold to the debtor with retention of title.
3. The declaration of the opening of proceedings relating to the seller of an asset, after delivery of the asset, does not in itself constitute grounds for termination or rescission of the sale, nor does it prevent the purchaser from acquiring ownership of the asset sold, provided that, at the time of the opening of proceedings, that asset is located in the territory of another State.
4. The provisions of the preceding paragraphs shall not prejudice the possibility of termination or cancellation for the benefit of the estate, under the terms provided for in this Code.

**Article 194**  
**Third-party purchasers**

The validity of an act entered into after the declaration of the opening of proceedings whereby the debtor disposes, for consideration, of immovable property or a ship or aircraft whose registration in a public register is mandatory shall be governed by the law of the State in whose territory the immovable property is situated or under whose authority that register is kept.

**Article 195**  
**Exercise of creditors' rights**

1. Any creditor may exercise his rights both in the main reorganisation and insolvency proceedings and in any non-main proceedings.
2. A creditor who obtains payment in foreign insolvency proceedings cannot be paid in proceedings pending in Timor-Leste until creditors of the same rank have obtained equivalent satisfaction.

**Article 196**  
**Pending actions**

The effects of the declaration of commencement of proceedings on pending actions relating to an asset or right forming part of the estate shall be governed exclusively by the law of the State in which such actions are pending.

**Article 197.**  
**Compensation**

The declaration of the opening of proceedings shall not affect the right of the creditor of the estate to set-off, if this is permitted by the law applicable to the debtor's counterclaim.

**Article 198.**

**Termination for the benefit of the estate**

The resolution of acts in favour of the estate is inadmissible if the third party demonstrates that the act is subject to a law that does not allow it to be challenged by any means.

**Chapter II**  
**Foreign insolvency proceedings**

**Section I**  
**General provisions**

**Article**  
**199 Scope**

1. The provisions of this chapter shall apply:
  - a) When a foreign court or a foreign representative involved in foreign proceedings requests assistance in Timor-Leste;
  - b) When assistance is requested in a foreign State in relation to a PRI proceeding in Timor-Leste;
  - c) When foreign proceedings and an IPR are being conducted simultaneously in relation to the same debtor;
  - d) To a request to open or participate in an IPR by creditors or any other interested parties from a foreign State.
2. The provisions of this chapter shall not apply to recovery and insolvency proceedings relating to the entities referred to in Article 3(2).
3. For the purposes of this Code, a 'foreign representative' is a person or entity, including an interim appointee, authorised in foreign proceedings to administer the reorganisation or liquidation of the debtor's estate or affairs or to act as a representative of the foreign proceedings.

**Article 200**  
**Competent court**

The functions referred to in this chapter relating to the recognition of foreign proceedings and cooperation with foreign courts shall be performed by the Court of Appeal.

**Article 201**  
**Authorisation of the BRI to act in a foreign State**

The BRI is authorised to act in a foreign State within the scope and on behalf of a PRI, within the limits permitted by applicable foreign law.

**Article 202**  
**Public policy exception**

The court may refuse to adopt any measure requested of it if it is manifestly contrary to the public policy of the State of Timor-Leste.

## **Section II**

### **Access of foreign representatives and creditors to the courts of Timor-Leste**

#### **Article 203 Direct access**

Foreign representatives have standing to appear directly before the courts of Timor-Leste.

#### **Article 204 Limited jurisdiction**

The filing of any application by a foreign representative in the courts of Timor-Leste does not imply that the foreign representative or the debtor's estate or business are subject to the jurisdiction of the courts of Timor-Leste, except in relation to the application filed.

#### **Article 205 Initial application for a PRI by a foreign representative**

The foreign representative has standing to apply for the opening of an IPR, in accordance with the rules set out in this Code.

#### **Article 206 Participation of a foreign representative in an IPR**

After recognition of a foreign proceeding, the foreign representative has standing to participate in a PRI.

#### **Article 207 Rights of foreign creditors**

1. Without prejudice to the provisions of the following paragraph, foreign creditors have the same rights as domestic creditors with regard to the initiation of and participation in an IAP.
2. The ranking of foreign creditors' claims shall be subject to the same rules as domestic claims.

#### **Article 208 Notification to foreign creditors**

1. Where, in accordance with this Code, creditors must be personally notified, such notification shall also be given to all known creditors who are not resident in Timor-Leste.
2. The Court or the BRI, as the case may be, may take appropriate measures to notify any creditor whose address is not yet known.
3. Notification to foreign creditors shall be made individually, unless the Court or the BRI, as the case may be, considers that, in the circumstances, another form of notification is more appropriate.

4. No letter rogatory or other similar form is required for the notification of foreign creditors.
5. Where personal notification of foreign creditors is required, it must contain:
  - a) The deadline for submitting any requests or claims and the specification of the locations where they must be submitted;
  - b) An indication that secured creditors must claim their claims;
  - c) Any other information required by law or deemed appropriate by the court or the BRI.

## **Section III Recognition of foreign proceedings**

### **Article 209 Application for recognition of foreign proceedings**

1. The foreign representative may apply to the court for recognition of a foreign proceeding for which he has been appointed.
2. The application for recognition shall be accompanied by a certificate of the decision to initiate or continue the foreign proceedings and the appointment of the foreign representative.
3. In the absence of the certificate referred to in the previous paragraph, the court or the BRI may accept other means of proof of the existence of the foreign proceedings and the appointment of the representative.
4. The request for recognition must identify all foreign insolvency proceedings relating to the debtor that are known to the foreign representative.
5. The court or the BRI may request a translation into an official language of Timor-Leste of the documents provided with the application for recognition of the proceedings.
6. The court may accept the documents submitted with the petition for recognition of the foreign proceedings, even if they are not authenticated.

### **Article 210 Decision to recognise foreign proceedings**

1. The foreign proceedings shall be recognised:
  - a) As the main foreign proceedings if they take place in the State where the debtor has its centre of main interests; or
  - b) As a non-principal foreign proceeding if the debtor has an undertaking, within the meaning of Article 1(f), in the foreign State.

2. The application for recognition of foreign proceedings shall be decided as soon as possible.
3. Unless proven otherwise, the debtor's registered office or, in the case of a natural person, their habitual residence shall be presumed to be their centre of main interests.

#### **Article 211**

##### **Subsequent information**

Upon submission of the application for recognition of the foreign proceedings, the foreign representative shall promptly inform the court whenever:

- a) Any substantial change in the status of the recognised foreign proceedings or in the status of the appointment of the foreign representative; or
- b) Any other foreign proceedings relating to the same debtor of which the foreign representative becomes aware.

#### **Article 212**

##### **Precautionary measures**

1. From the moment a request for recognition is submitted until a decision is made, the court, at the request of the foreign representative, may order provisional protective measures when such measures are urgent and necessary to protect the debtor's estate or the interests of creditors, namely:
  - a) The suspension of enforcement proceedings against the debtor;
  - b) Entrusting the administration of the debtor's estate located in Timor-Leste to the foreign representative or another person appointed by the court, in order to protect and preserve the value of assets which, by their nature or other circumstances, are perishable or susceptible to devaluation or which may otherwise be put at risk.
  - c) Any measure referred to in Article 214.
2. Unless otherwise provided in the judgment recognising the foreign proceedings, the provisional measures ordered under this article shall cease when the application for recognition is decided.
3. The court may refuse to grant the provisional measures requested if this could interfere with foreign proceedings.

#### **Article 213**

##### **Effects of recognition of a foreign main proceeding**

1. The decision to recognise a foreign main proceeding shall have the effect of suspending:

- a) The bringing or continuation of proceedings against the debtor or against the debtor's estate, rights, obligations or liabilities;
- b) Enforcement proceedings against the debtor; and
- c) The right to transfer, encumber or dispose of the debtor's estate in any way.

2. The scope of application and the duration, modification or termination of the suspensions referred to in the previous paragraph are subject to the rules laid down in this Code.

3. The provisions of paragraph 1 shall not prejudice the right to bring the necessary actions to preserve a claim against the debtor.

4. The provisions of paragraph 1 shall not prejudice the right to request the opening of an IRO or the right to submit claims in that procedure.

#### **Article 214**

##### **Measures after recognition of foreign proceedings**

1. After recognition of foreign proceedings, whether main or non-main, the court may, at the request of the foreign representative, order any measures it considers appropriate for the protection of the debtor's estate or the interests of creditors, in particular:

- a) The suspension of the filing or continuation of actions against the debtor or against the debtor's estate, rights, obligations or liabilities;
- b) The suspension of enforcement proceedings against the debtor;
- c) The suspension of the right to transfer, encumber or dispose of the debtor's estate in any way;
- d) Hearing witnesses, gathering evidence or delivering items related to the debtor's estate, rights, obligations or liabilities;
- e) Entrust the administration of all or part of the debtor's estate located in Timor-Leste to the foreign representative or another person appointed by the court;
- f) Extend the provisional measures ordered under Article 212.

2. After recognising a foreign proceeding, whether principal or non-principal, the court may, at the request of the foreign representative, assign all or part of the debtor's estate located in Timor-Leste to the foreign representative or another person designated by the court, provided that the interests of Timor-Leste creditors are adequately protected.

3. In the case of a request made by a representative of a non-main foreign proceeding, the court may only order measures relating to assets which, under

under national law, must be regulated and decided in the non-principal foreign proceedings or relate to information required in those proceedings.

**Article 215**

**Protection of creditors and other interested parties**

1. The measures provided for in Articles 212 or 214 shall only be ordered if the interests and rights of creditors and third parties, including the debtor, are adequately protected.
2. The granting of the measures provided for in Articles 212 or 214 may be subject to compliance with the conditions that the court considers appropriate in the case.
3. The court may, at the request of the foreign representative or a person affected by the measure ordered under Article 212 or 214, or on its own initiative, modify or terminate such measure.

**Article 216**

**Powers of the foreign representative**

1. After recognition of foreign proceedings, the foreign representative shall have standing to bring actions to secure the debtor's estate located in Timor-Leste.
2. When the foreign proceedings are non-principal foreign proceedings, the powers referred to in the previous paragraph may only be exercised by the foreign representative in relation to assets which, according to Timorese law, must be regulated and decided upon in the non-principal foreign proceedings.

**Article 217**

**Intervention of a foreign representative in proceedings in Timor-Leste**

After recognition of a foreign proceeding, the foreign representative may, provided that the requirements of Timorese law are met, intervene in any proceeding to which the debtor is a party.

**Section IV**

**Cooperation with foreign courts and foreign representatives**

**Article 218**

**Cooperation and direct communication between the court of Timor-Leste and foreign courts or foreign representatives**

1. In proceedings referred to in Article 199, the court shall cooperate as far as possible directly with foreign courts or foreign representatives.
2. The court may communicate directly with or request information or assistance directly from foreign courts or foreign representatives.

**Article 219**

**Cooperation and direct communication between the BRI and foreign courts or foreign representatives**

1. In proceedings referred to in Article 199, the BRI shall, in the exercise of its functions and under the supervision of the court, cooperate as far as possible with foreign courts or foreign representatives.
2. The BRI shall have the power, in the exercise of its functions and under the supervision of the court, to communicate directly with foreign courts or foreign representatives.

**Article 220**

**Forms of cooperation**

The cooperation referred to in the preceding articles may be implemented by any means deemed appropriate, including:

- a) The appointment of a person or body to act under the guidance of the court;
- b) The communication of information by any means deemed appropriate by the court;
- c) The coordination of the administration and supervision of the debtor's estate and affairs;
- d) The approval or enforcement by the courts of agreements relating to the coordination of proceedings;
- e) The coordination of simultaneous proceedings concerning the same debtor.

**Section V**

**Concurrent proceedings**

**Article 221**

**Commencement of a PRI after recognition of a foreign main proceeding**

1. After recognition of a foreign main proceeding, an IPR may only be commenced if the debtor has assets in Timor-Leste.
2. The effects of the PRI are restricted to the debtor's estate located in Timor-Leste and, to the extent necessary to implement cooperation and coordination under the terms of the previous articles, to other assets of the debtor which, under Timorese law, must be subject to regulation and decision in the PRI.

**Article 222**

**Coordination of an IPR with foreign proceedings**

1. Where foreign proceedings and an IPR concerning the same debtor are being conducted simultaneously, the Timorese court shall seek to ensure the cooperation and coordination provided for in the preceding articles, and the rules set out in the following paragraphs shall apply.

2. When the PRI is already running its course at the time the recognition of the foreign proceedings is requested:

**Article 224**

**Presumption of insolvency based on the recognition of foreign main proceedings**

a) The enactment of any measure under Articles 212 or 214 must be consistent with the PRI;

b) If the foreign proceedings are recognised in this State as foreign main proceedings, the provisions of Article 213 shall not apply.

Upon recognition of foreign main proceedings, it shall be presumed, unless proven otherwise, for the purposes of opening EIP, that the debtor is insolvent.

3. When the PRI is initiated after the recognition or request for recognition of a foreign proceeding:

**Article 225**

**Rule on payment in simultaneous proceedings**

a) Any measure in force ordered under Articles 212 or 214 must be reviewed by the Timorese court and amended or terminated if it is incompatible with the PRI; and

b) If the foreign proceedings are foreign main proceedings, the stays referred to in Article 213(1) shall be suspended.

Without prejudice to the rules applicable to secured and preferential claims, a creditor who has been partially paid the amount of the claim filed in the PRI in foreign insolvency proceedings may not receive any payment for the same claim in the PRI, as long as the payment to other creditors of the same class is proportionally lower than the payment that creditor has already received in the foreign proceedings.

213.<sup>o</sup> are amended or terminated under the terms provided for in paragraph 2 of Article 213, if they are incompatible with the PRI proceedings.

4. In the case of a non-principal foreign proceeding, the Timorese court shall only order, extend or modify a measure that concerns property which, under Timorese law, must be regulated and decided in the non-principal foreign proceeding or concerns information required in that proceeding.

**ANNEX I**

**Summary of the subject matter of the Business Recovery and Insolvency Code and its main objectives**

**Article 223**

**Coordination of more than one foreign proceeding**

**PURPOSE**

1. Where more than one foreign proceeding is being conducted simultaneously in relation to the same debtor, the Timorese court shall seek to ensure the cooperation and coordination provided for in the preceding articles, and the rules set out in the following paragraphs shall apply.

The regular Recovery and Insolvency Code covers the entire insolvency proceedings for companies owned by either legal entities or individuals. These proceedings provide for the recovery or revitalisation of the company, which, according to the philosophy of this Code, takes precedence over liquidation, as well as the liquidation of the company's assets where recovery is not feasible.

2. The granting of any measure under Articles 212 or 214, requested by the representative of a non-main foreign proceeding after recognition of a main foreign proceeding, must be consistent with the main foreign proceeding.

**OBJECTIVES**

3. If a foreign main proceedings are recognised after the recognition or submission of a request for recognition of foreign non-main proceedings, any measure in force under Articles 212 or

It is commonly accepted that an insolvency regime should allow unviable companies to be removed from the market in an orderly manner, preventing them from creating difficulties for other economic agents, because insolvency and the disorderly withdrawal of the insolvent company can cause irreparable damage to its creditors.

214 must be reviewed by the court and amended or terminated if it is incompatible with the foreign main proceedings.

The provision of a system for the recovery of companies in financial difficulty, rather than their immediate liquidation, makes it possible to preserve jobs and family incomes, continue the production of goods and services provided by these companies, and modernise and streamline their management models.

4. If, after the recognition of a non-principal foreign proceeding, another non-principal foreign proceeding is recognised, the court shall order, modify or terminate the appropriate measures in order to facilitate the coordination of the proceedings.

A good company recovery and insolvency law is a

essential element for the growth of the national economic simple (using forms provided by the BRI) and to be completed structure and investment in the country, because it strengthens the within a short period of time, estimated at 6 months, excluding confidence of banking and credit institutions, which in turn would any incidental proceedings that may occur. make more credit available to businesses. According to data from the World Bank's September 2025 Economic Report on Timor-Leste, the credit-to-GDP *ratio* is very low, well below the level of countries similar to ours (Solomon Islands, Bhutan, Djibouti, Fiji and Vanuatu), which averages 56%. The same report also indicates that the loan-to-deposit *ratio* is also low, standing at 31.5% at the end of 2024, which indicates a significant underutilisation of available liquidity. Monetary assets have been growing consistently since 2021 at a rate of 12.9%, but this growth is not reflected in credit expansion. The low loan-to-deposit *ratio* leaves US\$1.6 billion in domestic savings unused.

Another reason for the need for a law on recovery and insolvency is that the law currently in force is Indonesian Law No. 4/1998 (applicable by virtue of the constitutional rule on the validity of law prior to the Restoration of Independence), which is very out of step with the current legal reality in Timor-Leste. Furthermore, the Indonesian law regime is based on an institutional framework that does not exist in Timor-Leste. In Indonesia itself, this law has already been amended at least twice, the first time in 2004.

#### **ESSENTIAL FEATURES OF THE INSOLVENCY REGIME**

The following are the essential features of the insolvency regime adopted in this Code:

- a) The primacy of recovery over insolvency: the system favours the recovery of companies in difficulty, and only when recovery is not feasible does a declaration of insolvency and liquidation take place. To emphasise this feature in the name of the Code, recovery is placed first and insolvency second (Recovery and Insolvency Code).
- b) The removal of insolvency proceedings from the courts: Insolvency proceedings are normally conducted by the courts. The application of this principle aims to minimise the involvement of the court, which will only intervene when necessary to declare the debtor insolvent, to qualify the insolvency, to approve the recovery plan, to decide on the termination and resolution of the debtor's business and to decree the discharge of the remaining liabilities. However, the possibility of appeal is enshrined when issues related to the fundamental rights of the parties are at stake. The competent court is the Judicial Court of First Instance of Dili.

Since court intervention is minimal, an administrative entity (Recovery and Insolvency Office

– BRI) is created to handle all insolvency proceedings.

- c) Procedural celerity and simplification: the proceedings are designed to be

- d) The principle of equal treatment of creditors ("*par conditio creditorum*"), whereby creditors of the same category or class are treated equally:
- e) The principle of inquisitorial and collaborative proceedings: insolvency proceedings are not adversarial (one party against the others), but rather proceedings that transcend the individual interests of the debtor or creditors. Therefore, it imposes a special duty of cooperation on the debtor. The BRI and the court are given a wide margin of discretion and may take into account facts that have not been alleged by the parties to the proceedings.
- f) The principle of a second chance (*fresh start*): It is now widely accepted that a natural person who is declared insolvent – provided that they did not cause this situation through their own fault – should not be marginalised and excluded from the system. They should be given a second chance, a fresh start. This regime is enshrined in Articles 171 et seq.

#### **PROCEDURAL STEPS**

The procedural steps includes the handling of matters related to:

- a) The prerequisites, i.e. verification of the current or imminent state of insolvency (Article 4);
- b) Legitimacy, i.e. who can apply for the proceedings to be opened (Articles 23 and 24);
- c) The declaration of the opening of proceedings, defining who declares the opening and the rights of opposition and appeal to the court (Article 30).
- d) The effects of the opening declaration, which are divided into effects on the debtor (Articles 48 et seq.), the procedural effects (Articles 54 et seq.), the effects on claims (Articles 58 et seq.), the effects on ongoing transactions (Articles 64 et seq.) and the possibility of terminating transactions for the benefit of the estate (Articles 67 et seq.);
- e) Negotiations with creditors (NECRE), which begin immediately after the declaration of the opening of proceedings, prior to which there can be no declaration of insolvency. NECRE lasts 90 days (Article 82) and aims to reach an agreement on a recovery plan. This part defines the deadline for submission, who can submit, the content of the plan, the approval of the plan by NECRE and its ratification by the court (Articles 98 to 118). Opposition to the plan and appeal to the court are also provided for.

f) If NECRE does not approve the agreement or if it is not ratified by the court, the debtor must be declared insolvent. The law defines the consequences of a declaration of insolvency, notably the loss by the debtor of the administration of its assets, as a rule, the seizure of assets and the maturity of all the insolvent party's obligations (Articles 124 to 130);

g) With the declaration of insolvency, the liquidation and payment phase begins (Articles 137 et seq.). The Code gives priority to the sale of the company as a whole. Payment is made according to a hierarchy of categories of claims.

### INCIDENTAL PROCEEDINGS

- a) Whenever insolvency is declared, it is mandatory to classify the insolvency as fortuitous or culpable. The classification is made by the court. If the insolvency is declared culpable, there are very serious consequences, which will be determined by the court (Article 170(3)). This is known as the insolvency classification incident.
- b) The other special incident is the discharge of the remaining liabilities (Articles 171 et seq.). The discharge of the debtor entails the extinction of all claims on the estate that still exist on the date on which the discharge is granted.

### FOREIGN INSOLVENCY PROCEEDINGS

Finally, the Code deals with foreign insolvency proceedings, also known as cross-border insolvency proceedings (Articles 199 et seq.).

- **Arbitration proceedings**

This is the action brought before an arbitral tribunal, as opposed to legal action, which is brought before the courts.

- **Acquis**

The assets and rights owned by the debtor that make up the debtor's separate estate. The estate covers all of the debtor's estate on the date of the declaration of the opening of the recovery and insolvency proceedings, as well as those acquired during the proceedings. The Recovery and Insolvency Administrator is responsible for drawing up an inventory of the assets that constitute the debtor's estate, describing the assets that comprise it and their value. The purpose of the estate is to guarantee the payment of the debtor's debts.

- **Recovery and Insolvency Administrator (ARI)**

This is a specialised agent or official who is part of the Recovery and Insolvency Office. Their role is to technically conduct the recovery and insolvency proceedings. They are appointed by the Recovery and Insolvency Office. The ARI may be assisted by technical specialists.

- **Provisional Administrator**

This is the recovery and insolvency administrator appointed before the declaration of the opening of recovery and insolvency proceedings, as a precautionary measure. They are appointed by the court, upon recommendation by the Recovery and Insolvency Office. Their role is to administer the debtor's estate or assist them in doing so. If the proceedings are declared open, the provisional administrator becomes the ARI for the proceedings.

- **Creditors' meeting**

This is a recovery and insolvency body that brings together the debtor and creditors. It is convened and chaired by the Recovery and Insolvency Administrator. Its purpose is to discuss and deliberate on the recovery plan or to deliberate on the declaration of insolvency.

- **Recovery and Insolvency Office (BRI)**

This is the administrative entity responsible for managing recovery and insolvency proceedings. Recovery and insolvency proceedings are handled by the Recovery and Insolvency Office. The BRI includes Recovery and Insolvency Administrators as its agents or employees.

- **Assets**

Each *item* or sum belonging to the debtor's estate that constitutes the estate.

- **Undivided property**

These are assets over which several people exercise joint rights, as the respective shares have not been divided.

- **Centre of main interests**

The place where the debtor habitually manages their interests in a manner that is likely to be known to others. This refers to the jurisdiction, i.e. the country with which the person or company is most closely associated for the purposes of insolvency proceedings. It is presumed that the centre of main interests is the place where the debtor company has its registered office or the individual debtor has his residence.

- **Credit subject to a condition precedent**

In recovery and insolvency proceedings, claims under suspensive condition are those whose constitution or existence is subject to the fulfilment of a condition, i.e. the verification or non-verification of a future and uncertain event, either by force of law or by legal transaction.

- **Creditors of the estate**

All holders of claims on the estate or claims secured by assets of the estate constituted prior to the declaration of the opening of the recovery and insolvency proceedings.

- **Creditors of the proceedings**

They are the holders of claims granted to the debtor after the declaration of the opening of the recovery and insolvency proceedings and throughout the proceedings, to enable the debtor to continue its activity, which normally occurs when there is a recovery plan. They are, in particular, the suppliers of loans, goods and services for the benefit of a possible recovery of the company.

- **Foreign creditors**

Creditors who have their habitual residence, domicile or registered office in a country other than the one in which the recovery and insolvency proceedings have been opened.

- **Gross negligence**

This is gross negligence that only an exceptionally careless person would commit. Liability for gross negligence requires an adequate causal link between the omission and the creation or aggravation of the insolvency situation.

- **Joint and several debtors**

Solidarity among debtors: Where there are several obligors, any one of them is liable to the common creditor for the full performance of the obligation. When one of the debtors performs the obligation in full, all the other debtors are simultaneously discharged in relation to the creditor. The

debtor who has fulfilled the obligation has a right of recourse against his co-debtors, that is, he has the right to demand from them the part that was due to them in the common obligation.

- **Right of preference**

The right of a certain person to take precedence over any other in the purchase of goods (or in the conclusion of another contract compatible with the preference), provided that they are willing to enter into the contract on equal terms with other interested parties.

- **Right of retention**

Generally speaking, it is the right of a creditor who has possession of an asset belonging to the debtor to refuse to hand it over until the debt has been paid.

- **Fraud**

The most serious form of guilt. A person is said to act with intent when they voluntarily act against a legal norm (or other norm of conduct to which they are bound) whose violation causes damage. There are three types of intent: (1) direct intent, in which the agent commits the act with the malicious intention of causing the damage they foresaw; (2) necessary intent, in which the agent did not intend the unlawful result, but knew that their behaviour would inevitably lead to that result; (3) eventual intent, in which the agent foresees the unlawful and harmful consequence as a possible consequence of their behaviour and does nothing to prevent it.

- **Exemption from remaining liabilities**

A regime that applies in the event of the insolvency of a natural person and allows debtors to have their debts forgiven if they have not been paid in full after the liquidation of the debtor's estate or have not been paid within five years of the closure of the proceedings. This five-year period is called **the assignment period**.

- **Ranking of claims**

Operation consisting of establishing the hierarchy or priority of payment of claims in the recovery and insolvency proceedings in the following order: labour claims, secured claims, privileged claims, ordinary claims and subordinated claims.

- **Insolvency**

Situation of a debtor who, at a given moment, is manifestly unable to meet their due obligations.

- **Insolvent**

A person who is in a situation of insolvency.

- **Incidental proceeding**

A proceeding that takes place in court when the court has to decide on issues raised during the proceedings.

recovery and insolvency (e.g. when the debtor opposes the declaration of insolvency – Article 32(1); when the decision is to be challenged; when the debtor or creditor intends to challenge the decision of the creditors' meeting – Article 115(3)). The incidental proceeding is either common or special. Special incidental proceedings include the qualification of the insolvency situation (fortuitous or culpable) and the discharge of remaining liabilities. The incidental proceeding is dealt with in separate proceedings.

- **Disposable income**

All income earned by the debtor, for any reason, during the assignment period (5 years after the closure of the recovery and insolvency proceedings) and intended for the payment of remaining debts. Disposable income does not include what is reasonably necessary for the maintenance of the debtor and his family and what is necessary for the exercise of his profession.

- **Liquidation**

Sale of assets from the estate, the proceeds of which are used to satisfy claims. Liquidation is the responsibility of the recovery and insolvency administrator.

- **Methods of disposal**

The method of disposal of the assets must follow the rules laid down in the enforcement proceedings, as regulated by the Code of Civil Procedure. Article 759 defines the following methods of sale: judicial sale and extrajudicial sale. Judicial sale may be carried out by means of sealed bids or by public auction. Extrajudicial sale may take the following forms: (a) Direct sale to entities that have the right to acquire certain assets; (b) Sale by private negotiation.

- **Autonomous assets**

Assets that have a special debt liability regime; this refers to a specific pool of assets exclusively allocated to the payment of certain debts (only these assets – and no others – are liable for these debts); this is the case, for example, with inheritance, where only the assets of the estate and not the personal assets of the heir are liable for the debts of the estate.

- **Apportionment**

Apportionment means **the proportional division and distribution of a quantity or amount among several persons or parties. In the recovery and insolvency proceedings, there is partial apportionment and final apportionment.**

- **Partial apportionment**

Partial apportionment in the recovery and insolvency proceedings is a distribution to creditors, in proportion to each one's share, of a portion of the amounts resulting from the liquidation of the insolvent party's assets and income **as liquidity is generated**, once the full payment of the debts of the proceedings has been safeguarded and before the liquidation is closed.

- **Final apportionment**

**Final apportionment** in the recovery and insolvency proceedings is the final division and distribution among creditors of the amounts remaining from the proceeds of the liquidation of the debtor's estate and income, after the debts of the proceedings have been fully paid

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