SUMMARY PROJECT FICHE

1. Basic Information

1.1. Desirée Number: BG 0103.04

Twinning code: BG/IB/2001-JH-01

1.2. Title: Streamlining Bankruptcy Proceedings

1.3. Sector: AD

1.4. Location: Bulgaria

2. Objectives

2.1. Wider Objective

To foster a more robust and competitive market economy by facilitating the exit of inefficient enterprises.

2.2. Immediate Objective

To improve and streamline bankruptcy procedures, in line with best EU practice.

2.3. Accession Partnership and NPAA priority

• Accession Partnership

“Improve bankruptcy and liquidation procedures and streamline implementation” *(short term priorities, economic criteria).*

• NPAA

Safeguarding the interests of members of commercial companies and others by introducing the obligation for maximum comprehensiveness and publicity of the essential information about the commercial companies and their branches;

Improving the legal framework for the companies.

3. Description

3.1. Background

A short-term priority in Bulgaria’s Accession Partnership is to improve bankruptcy procedures and streamline their implementation, and thereby help Bulgaria to meet the economic criteria for accession. Effective bankruptcy procedures are required to facilitate the exit of inefficient enterprises, recycle assets to more efficient economic use, and encourage banks to lend to the private sector.

Until now, bankruptcy procedures have been slow, cumbersome and inconclusive, due to a deficient legal framework, inexperienced judiciary and trustees, and complex and time-consuming procedures. The absence of a well-functioning bankruptcy framework is a brake on economic development.
The Bulgarian authorities have recognised this problem and have been working to overcome it with help from external organisations, notably the World Bank and the European Commission. Although there is no established EU acquis in this area, Bulgaria seeks to create a bankruptcy framework in line with best practice in EU member states.

The Law on the amendments to the Commerce Act, Part IV Bankruptcy entered into force on 13th October 2000. These amendments should speed up bankruptcy proceedings and improve the legal framework.

With a decision of the Supreme Judicial Council (SJC), of February 2001, specialised court panels for dealing with bankruptcy cases have been set up as follows:

- At the Supreme Cassation Court – one panel with three judges and one judge as a reserve;
- At the Courts of Appeal – one panel with three judges;
- At the District courts – two panels, each with one judge.

Although the legal and institutional framework has thus been improved, not all of the problems of the legal regime of bankruptcy have been solved. The following problems can be mentioned:

- Gaps exist in legal provisions, including the legal regime for converting the debtor’s property into cash. The Commercial Law refers to the rules of the Civil Procedure Code, concerning the seizure and sale of assets of individual private debtors. These rules are not adequate to the needs of a market economy and are not always suitable for bankruptcy proceedings.
- No special provisions exist for the estimation and conversion into cash of some specific property rights, such as intellectual property rights and rights over securities;
- There is a need to harmonise the existing norms with the established 3-instance court proceedings and the amended rules regulating them;
- No special rules exist on insolvency of non-commercial legal persons, co-operatives, voluntary pension funds, social security pension companies and private persons;
- There is a need for clear and comprehensive regulation of the expenses for dealing with bankruptcy, including the remuneration of the trustees;
- Problems exist in determining the rank of privileged claims;
- The EU Council Regulation on Insolvency needs to be transposed into national legislation;
- Provisions from different legal areas (eg taxation, social assistance, social security, financial control, labour relations) need to be harmonised with the bankruptcy provisions contained in the Commercial Law and the Civil Procedure Code.

A further priority is to train the judges, trustees and all the other institutions involved in implementing the new legal framework, as well as unifying the court practices. Furthermore, bankruptcy could be avoided through introduction of suitable preventive measures and inquiries for the detection of insolvent enterprises.

Institutional arrangements and administrative procedures need to be reviewed and optimised. The installation of improved information and case handling systems in bankruptcy chambers and the courts would contribute to faster case handling.

A more complete explanation and critique by the Ministry of Justice of the current legal, institutional and procedural arrangements for bankruptcy in Bulgaria is given at annex 5 of this fiche.
3.2. Linked activities

An ongoing project under the Phare 1999 National Programme with the Ministry of Justice called "Strengthening the independence of the Judiciary and the institutional capacity of the Ministry of Justice to adopt and implement the Acquis of the European Union in the field of Justice and Home Affairs" is directed to the institution building of the Bulgarian judiciary and the staff of the Ministry, as well as implementing the acquis. This Phare 2001 project will build on the activities of the earlier project by streamlining bankruptcy proceedings in particular.

This Phare 2001 project complements the measures supported by the World Bank's Financial and Enterprise Sector Adjustment (FESAL) Programme in Bulgaria, both under the post-Board measures supported by FESAL II and the future measures to be supported by FESAL III.

The activities of the bankruptcy project are coordinated with those of the judicial development project sponsored by USAID, which is assisting Bulgaria in the automation of its courts. The new system will be able to capture and process basic data related to every case irrespective of its type (civil, criminal or administrative) or the level of the court. It cannot capture all data related to specialised areas of law such as bankruptcy, nor is software provided, so a specialised Information systems element is included in this Phare 2001 project.

The Magistrate’s Centre in Bulgaria is in charge of the training of judges in all fields of law and ABA / CEELI (American Bar Association / Central and East European Law Initiative) is helping to implement the bankruptcy law on a limited scale. Software is being developed for the Sofia District Court for record keeping.

The European Commission has highlighted reform of the judiciary as one of the key strategic objectives that Bulgaria needs to fulfil to make faster progress with its pre-accession preparations. There is likely to be an increasing number of new projects in this area supported by Phare and other agencies. This Phare 2001 project on bankruptcy proceedings will require close and careful coordination with ongoing and new projects to avoid unnecessary overlap and duplication. The Ministry of Justice itself should take the lead in donor coordination.

3.3. Results

3.3.1 Improved Legal Framework

The project will enable the Ministry of Justice to submit to the Council of Ministers and Parliament fully elaborated proposals for improving the legal framework for bankruptcy, to create a legal framework in line with best practice in EU Member States. The project will ensure a legal framework that permits prompt identification of cases of bankruptcy and allows the public authorities to take appropriate action to deal with these cases. The project will ensure that the legal framework for bankruptcy is fully consistent with other aspects of the Bulgarian legal code, such as company law, tort, etc. The scope of bankruptcy law will be widened and clarified, in line with best practice in EU Member States.

3.3.2 Streamlined Institutional Arrangements and Administrative Procedures

The project will clarify the current institutional arrangements for identifying and dealing with bankruptcy. It will enable the Ministry of Justice and the courts to streamline administrative and court procedures so that the handling and resolution of bankruptcy cases is streamlined and the time taken to conclude cases is reduced to a period comparable with best practice in EU Member States. The project will introduce more effective methods of selecting, training and remunerating trustees.
3.3.3 Well-Qualified Practitioners

The project will result in judges, prosecutors, trustees and administrative staff have the specialist legal and commercial knowledge to handle bankruptcy cases in an effective and expeditious manner. The project will also raise the awareness of the evolving bankruptcy framework among policy makers, the accountancy and legal profession, and business representatives.

3.3.4 Improved Information Systems

The project will result in an objective diagnosis of the priorities for new information systems (hardware and/or software) in the Ministry of Justice, bankruptcy chambers and courts to streamline procedures and improve case handling. Subject to the conditions in section 9 below, the project will result in the installation and proper functioning of these systems.

3.4. Activities

The twinning partner will start by making a comprehensive and objective assessment of the existing legal framework for bankruptcy in Bulgaria, institutional arrangements, administrative and court procedures, skills and qualifications of practitioners, and information and case handling systems, to identify the main weaknesses in existing arrangements and their relative importance.

This assessment will be performed in close consultation with the Ministry of Justice; the Supreme Judicial Council and representatives of the courts; bankruptcy trustees; the Ministry of Economy and representatives of banks and the business community; and the European Commission, the World Bank, USAID and other donors helping to improve the functioning of the Bulgarian judiciary. The assessment will be highly practically focused and include visits to bankruptcy chambers and courts throughout the country.

The twinning partner will then present its conclusions to the project steering committee (see section 6 below) and agree a programme of activities to achieve the results described in section 3.3 above. These activities, which will be carried out in a highly participatory manner involving all stakeholders, will include:

- Drafting of legislative amendments and new legislation.
- Recommendations for institutional reform and for simplifying and streamlining administrative procedures, and assistance in implementing these recommendations.
- Recommendations for introducing new methods for detecting and averting bankruptcy, including the possibility of out-of-court arrangements for dealing with bankruptcy.
- Design and implementation of a sustainable training strategy (which might include some overseas study visits if appropriate) to familiarise policy makers, practitioners and the business community (enterprises, lawyers, banks, accountants) with evolving Bulgarian and EU Member States’ bankruptcy law and procedures, and ensure that bankruptcy cases are handled in an expert and effective manner.
- Recommendations on reforming the selection, training and remuneration of trustees, and assistance in implementing these recommendations.
- An assessment of the priority needs for new or improved information systems (hardware and/or software) in bankruptcy chambers and courts. Reaching agreement with the project steering committee and the Commission Delegation on how the available funds for equipment
(hardware and/or software) should be deployed to achieve maximum benefit, bearing in mind other ongoing or future projects for wider computerisation of the courts. Subject to the final agreement of the EC Delegation, the twinning partner will then assist the beneficiary in tendering, procuring and installing this equipment (hardware and/or software), and ensure that adequate training is provided to use it effectively. These activities will need to be very carefully planned and phased, bearing in mind the contracting deadline for Phare support (30 November 2003) and the need to reach agreement with the beneficiary and European Commission prior to procurement.

4. INSTITUTIONAL FRAMEWORK

The beneficiaries of this project will be the Ministry of Justice and the Bulgarian judiciary.

A project steering committee, comprising the following people, will be set up at the outset of the project to select the twinning partner and will meet regularly to monitor the implementation of the project.

The Project Leader will be Mrs. Snejana Maleeva - Head of Legal European Integration Directorate at the Ministry of Justice, who will be responsible for all day-to-day matters of project implementation and will actively support the twinning partner.

Ministry of Justice:
- Mrs. Snejana Maleeva - Head of Legal European Integration Directorate,
- Mrs. Pepa Laleva - Inspector and chairwoman of the Interdepartmental Working Group which prepared the draft of the amendments to Part IV of the Commerce Law, Bankruptcy.
- Mrs. Neli Madanska – Inspector in Bankruptcy
- Ms. Nevena Mateeva - Senior Expert, Legal European Integration Directorate,
- Mrs. Roumiana Dimitrova - Expert, Legal European Integration Directorate,
- Mr. Dimitar Simeonov – IT expert.

Court System:
- Mr. Ivan Grigorov - Chairman of the Supreme Court of Cassation.
- Mr. Zdravko Kirov -Chairman of Plovdiv Court of Appeal.
- Mr. Sotir Zazarov- Chairman of Plovdiv District Court.
- Mr. Evgeni Staikov - Chairman of Sofia Court of Appeal.
- Mrs. Tania Radkova - Vice Chairwoman of the Sofia District Court, Chairwoman of the Commercial Chamber of the Sofia District Court.
- Mrs. Kamelia Ephrèmova - Vice Chairwoman of the Sofia City Court, Chairwoman of the Commercial Chamber of the Sofia City Court.
- Mr. Svejen Beninski, judge in the Sofia City Court.

Supreme Judicial Council:
- Mrs. Ljubka Ilieva -judge at the Supreme Cassation Court. tel 088 846 287

Trustees:
- Mr. Dimitar Bankov
- Mr Stanislav Lutov

Ministry of Economy:
- Mrs. Eliana Antalovicheva, Head of Department.

Agency of State Receivables:
- Mr Stilian Simeonov, Director of the Commercial Directorate.
5. Detailed Budget (euro)

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<th>Support</th>
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<th>National Cofinancing  (see note)</th>
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<td>800 000</td>
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**Note:** The budget for the equipment component (which may be hardware or software) shown in the above table is indicative and will depend on a more precise assessment by the twinning partner of the priorities and needs and the agreement by the Commission Delegation on the equipment to be procured. In any event, Phare will cover 75 percent of the total final cost of such equipment, up to a maximum amount of 300 000 euro. If the total final cost exceeds the indicative 400 000 euro shown in the table, the beneficiary will ensure that the additional national co-financing required is made available.

6. Implementation Arrangements

6.1. Implementing Agency

The CFCU in the Ministry of Finance will be responsible for tendering and contracting the project, in collaboration with the Ministry of Justice.

6.2. Twinning

The project will be delivered by twinning by one or more EU Member States. The initial contact point for member states interested in participating in the project is:

Mrs. Maria Serkedjieva, Deputy Minister of Justice, tel: (+ 359 2) 987 76 86, fax: (+ 35 92) 981 1096.

In all twinning projects, success in delivering a guaranteed result will depend on the coherence of a number of successive inputs, the continuity of those inputs, and steady progress. Every twinning project will therefore include a Member State Project Leader, who continues to work in his/her Member State administration but who devotes some of his/her time to conceiving, supervising and coordinating the overall thrust of the project. S/he will always be complemented by at least one full-time expert, known as a Pre-Accession Advisor (PAA), from a Member State to work on a day-to-day basis with the beneficiary in the candidate country and accompany the implementation of the twinning project.

A resident Pre-Accession Adviser (PAA) will be responsible for ensuring the delivery of the results of the project identified in section 3.1, supported by short-term experts. The duration of the project (and the PAA’s residence) will be two years. The PAA will be based at the Ministry of Justice in Sofia, though the project will involve frequent field visits throughout Bulgaria.

The PAA should have profound practical knowledge of commercial law, particularly bankruptcy law and procedures, in a representative cross-section of EU Member States. (S)he might be a judge, business lawyer, senior civil servant or a trustee. (S)he should possess the ability to work in an unfamiliar and challenging environment, be able to forge creative working relationships
with a wide range of people, and possess excellent communication skills. The PAA should be fluent in English or German and should ideally have some experience in change management and delivering projects in third countries.

The short-term experts involved in this project will certainly include professional trainers and information systems advisers.

7. Implementation Schedule

- Project fiche distributed to Member States: 2001 Q2
- Twinning partner selected: 2001 Q3
- Start of project activities: 2002 Q1
- Equipment tendered: 2002 Q3
- End of project: 2003 Q4

8. Equal Opportunity

Equal opportunity principles and practices in ensuring equitable gender participation in the project will be followed.

9. Conditionality and sequencing

Projects to be implemented through twinning require the full commitment and participation of the senior management of the beneficiary institution. In addition to providing the twinning partner with adequate staff and other resources to operate effectively, the senior management must be whole-heartedly involved in the development and implementation of the policies and institutional change required to deliver the project results.

The equipment element of the project (which may be hardware or software) must be focused on streamlining bankruptcy proceedings, and should not attempt to improve courts capacity more generally. The equipment will only be tendered once the Commission Delegation is satisfied that the proposed equipment will contribute to achieving the results of the project, can be utilised effectively, and is consistent with the wider courts computerisation strategy that is needed in Bulgaria and which may attract support from Phare and other donors in future.

ANNEXES TO PROJECT FICHE

1. Logical framework matrix
2. Detailed implementation chart
3. Contracting and disbursement schedule by quarter
4. List of relevant laws and regulations
5. Background note and recommendations by Ministry of Justice on current legal framework and procedures for bankruptcy
# ANNEX 1 : LOGRAME MATRIX

<table>
<thead>
<tr>
<th>Streamlining bankruptcy proceedings</th>
<th>Total Budget 1.200.000 EURO</th>
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<td><strong>Wider Objective</strong></td>
<td><strong>Indicators of Achievement</strong></td>
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<td>To foster a more robust and competitive market economy by facilitating the exit of inefficient enterprises.</td>
<td>• Less unsound enterprises on the market</td>
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<tr>
<th><strong>Immediate Objectives</strong></th>
<th><strong>Indicators of Achievement</strong></th>
<th><strong>How, When and By Whom Indicators Will Be Measured</strong></th>
<th><strong>Assumptions and Risks</strong></th>
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<tr>
<td>• To improve and streamline bankruptcy procedures, in line with best EU practice.</td>
<td>• Speeding up and enhancement of the quality of the procedure&lt;br&gt;• Improved institutional capacity</td>
<td>• Reporting of Pre-accession advisor&lt;br&gt;• Working Groups&lt;br&gt;• Judiciary/ministerial evaluation&lt;br&gt;• Reporting of the training sessions</td>
<td>• Relation between MJ and professional bodies</td>
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### RESULTS

#### 3.3.1 Improved Legal Framework

Submission to the Council of Ministers and Parliament fully elaborated proposals for improving the legal framework for bankruptcy in line with best practice in EU Member States.

#### 3.3.2 Streamlined Institutional Arrangements and Administrative Procedures

Clarification of the current institutional arrangements for identifying and dealing with bankruptcy.

#### 3.3.3 Well-Qualified Practitioners

Judges, prosecutors, trustees and administrative staff with specialist legal and commercial knowledge to handle bankruptcy cases in an effective and expeditious manner.

#### 3.3.4 Improved Information Systems

Diagnosis of the priorities for new information systems (hardware and/or software) in the Ministry of Justice, bankruptcy chambers and courts below and installation of these systems.

| • Submission of texts of law | Can be measured by all parties involved |
| • Network of trained judges, prosecutors, magistrates in the bankruptcy proceedings and court management techniques | Report of the pre-accession adviser |
| • Quality of the activities (judgements, reports etc..) | Report of the meetings of the steering committee |
| • Improvement of functioning of Courts | • Report of the PPA of his visits in the Ministries and in the Courts. |
| • Functioning of the computer system | • Working sessions |
| | • Consultation of the data base on bankruptcy cases to assess the speeding up of the bankruptcy proceedings |
| | • Improvement of functioning of Courts |
| | • Functioning of the computer system |
ANNEX 2: IMPLEMENTATION CHART

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*Legend:* T- Tendering, C-Contracting and covenant preparation, I–Implementation

ANNEX 3: QUARTERLY CUMULATIVE CONTRACTING AND DISBURSEMENT SCHEDULE (MEURO, Total project budget)

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ANNEX 4: LIST OF RELEVANT LAWS AND REGULATIONS

1. Commerce Law
2. Banking Law
3. National Bank Law
4. Insurance Law
5. Civil Procedure Code
6. Penal Code
7. Penal Procedure Code

Copies of all the above legislation will be made available in English to the selected twinning partner.
ANNEX 5: BACKGROUND NOTE AND RECOMMENDATIONS BY MINISTRY OF JUSTICE ON CURRENT LEGAL FRAMEWORK AND PROCEDURES FOR BANKRUPTCY

The general rules on bankruptcy are regulated in Part Four of the Commerce Act. Specific rules for the bankruptcy proceedings are provided only for banks and insurance companies in the Law on Banks, and in the Insurance Law.

General rules on bankruptcy

Under Bulgarian legislation, bankruptcy is a court proceeding. It is a procedure for general execution aimed at proportionate satisfaction of the creditors of an insolvent or overindebted merchant.

The special characteristics here are that in the bankruptcy proceedings the possibility is included for reorganization of the debtor. This unified procedure is determined by the purpose of the proceedings: to ensure equitable satisfaction of the creditors and opportunity for reorganization of the debtor’s enterprise.

Bankruptcy is a complex court proceeding comprising unity of substantive and procedural legal provisions, a combination of optional and proprio motu procedures, with signs of both adversary and non-contentious proceedings. Both obligatory and optional procedures are provided for in the law.

Bankruptcy proceedings are special ones, different from all other court proceedings. They have several compulsory and facultative stages, each bankruptcy case progressing in a different way. Claim proceedings, universal forced execution and administration, they are all parts of the bankruptcy proceedings.

The bankruptcy proceedings influence the other court proceedings and the interests of a large number of people: e.g. liquidation proceedings, the register for the immobile, etc.

Preventive Measures

Bankruptcy is a ultimate remedy; everything must be done to avoid it because the effects of bankruptcy are catastrophic for the debtor, the creditors, the workers and for the economy as a whole. For instance, in most of the European Union countries, the debtor can propose voluntarily a restructuring plan with a view to the survival of his enterprise, before the declaration of bankruptcy.

Therefore preventive measures could be organized also in Bulgaria; it must be done through a legislative framework in order to protect the rights of the creditors and employees.

Scope of application

In various European Union countries, the scope of application of the bankruptcy is very broad. It applies to private and non-profit organizations. Even if the scope of application is narrower, then there are specific insolvency procedures for private and non-profit organizations; maybe the scope of application of the law can be envision in a broader context.

International bankruptcy

Enterprises have more and more activities in various countries; the bankruptcy can therefore have effects in different States; must the court and the law of the place where the bankruptcy has been declared, determine the effects of the bankruptcy in the other states?

Various answers have been given to this question in the national laws of EU or other countries; the EC Council Regulation on Insolvency harmonises the rules on competence of jurisdiction and applicable law; though the Bulgarian law provides solutions to this problem (see articles 758 & 759 of the bankruptcy law), it is opportune to examine whether the Regulation could not replace these provisions.
Compatibility between Penal, Company and Bankruptcy Law.

Company law. The interactions between these three branches of law are evident. For instance, it is important to have a sufficiently high minimum capital for the companies in order to protect the creditors; furthermore, some guarantees must be given in order to maintain this capital during the life of the company; a financial plan for the first years of the life of the company should accompany the memorandum at the creation of the company; besides, reduction of capital during the life of the company must be avoided or regulated and in case of decrease of the capital of the company under a certain level (for instance the assets do not represent the half of the capital), urgent measures must be taken. A good company law will contribute to the avoidance of bankruptcy.

Penal law. Penal sanctions can dissuade managers to misuse the assets of the company. Bulgaria has already in its legislative arsenal, some provisions on this, but it could be opportune to broaden these sanctions and render them more accurate. Sanctions must be provided for trustees as well.

Tort Law. Civil sanctions must also be foreseen in case of gross negligence in the management of the company. It will have not only a dissuasive effect but also give to the prejudiced creditors or workers compensation.

Procedures

The project must review the procedures for bankruptcy. The obligatory procedures pass through the following stages:

**Obligatory stage 1:** Upon a claim filed by the debtor or a creditor, the bankruptcy court ascertains the insolvency of the debtor and declares it by a decision in which it institutes the bankruptcy proceedings and appoints provisional trustee. The Commerce Act contains a legal definition of insolvency (Art.608). Legislative proposals need to be elaborated regarding the problems with the legal framework which have not been solved with the last amendments of the Commercial Law (17.10.2000):
- speeding of the procedures regarding the case filing, the collection of proofs from the moment of the filing of the request until issuing the decision through introduction of procedural dispositions
- legislative regulation of the present collision between the principle of publicity, on one hand, and the principle of keeping the commercial secret of the debtor and preventing the mishandling with the right of the creditor
- training of judges aimed at the acquisition of economic knowledge on the insolvency and the overindebtness of the merchant
- training for the court staff, responsible for the record-keeping
- automation of the filing offices and the bankruptcy panels.

**Obligatory stage 2:** Upon the initiation of the bankruptcy proceedings, the debtor continues his activity under the supervision of the trustee, but if the court finds that the debtor infringes with his acts upon the interests of the creditors, it may deprive him of the right to manage and dispose of his property, and delegate this right to the trustee.

Changes needed include legislative regulation of the competence of the trustee and the debtor in the cases when the court has dismissed the debtor from the right to deal with the property and has given this right to the trustee according to the legal premises. Also establishing a connection among the court books, the commercial registers, the registers for entering data, the filing staff and the publication in the State Journal about the opening of the bankruptcy proceedings.

**Obligatory stage 3:** During this stage, besides finding the creditors of the debtor and their receivables the trustee carries out the activities provided for by the law to collect the receivables. The trustee compiles lists of the creditors claiming receivables. In the meantime, the first general meeting of the creditors, scheduled by the court with the declaratory decision, is held. The meeting elects trustee in bankruptcy.
Changes needed include:

**Legislative changes:**
- Improvement of the legislative framework regarding the receivables, after the opening of the bankruptcy proceedings;
- Simplification of the procedures regarding the objections against the list of the receivables, compiled by the trustee.

**Training:**
- Training of trustees, creation of practices and standards for the of the financial situation of the debtor, the kind the receivables and the obligations of the merchant;

**Automation:**
- Elaboration of unified rules, development of software, training of judges and court officials for the organisation of the first creditors’ meeting;
- Development of software for the ranking of the creditors.

**Optional stage:** The court declares the debtor bankrupt under the terms of Art. 710 of the Commerce Act. With the decision for declaring bankruptcy, the court rules termination of the activity of the enterprise, imposes a general injunction and levies a distraint on the debtor's property, terminates the powers of the bodies of the debtor when he is a legal person. The conversion of the property into cash is carried out by the trustee to pay the receivables of the creditors and the expenditures incurred in the bankruptcy proceedings.

The bankruptcy proceedings are terminated with a decision of the court when all debts have been redeemed or when the bankruptcy estate has been depleted.

Changes needed include:

**Legal aspects:**
- The social moment when declaring the bankruptcy of the debtor, especially after a failed rescue plan;
- Analysis of the experience of the Member States of the EU and elaboration of legislative proposals concerning the conversion of the property into cash;
- Improvement of the distribution of the payments among the creditors.

**Automation:**
- Preparation and introduction of unified forms for the actions of the trustee and the bankruptcy court.

The law foresees that the trustee must keep his accounts in books which must be bound. New legislation could give to the trustee the faculty to keep the accounts on a computer.

**Optional stage: Rescue procedure**

**Rescue plan** - The company of the debtor can be rescued through a court rescue proceedings. This possibility and the rescue procedure as a whole are related to strictly determined terms - for proposing of the plan; for its admittance for examination by the creditors’ meeting; for its adoption by the creditors’ meeting; for its approval by the court; for appealing against it;

Changes needed include:

**Legal aspects:**
- Introduction of a mechanism for a more successful combination of the interests of the creditors, on one hand, and the interests of the debtor and the employees, on the other hand in the rescue procedures;
- Legislative mechanism for attracting investors, as well as introduction of modern forms for restructuring of the enterprise of the debtor.
**Training:**
- Training of trustees regarding the establishment of practices and standards for preparation of rescue plans;
- Training of judges and specialized experts in court expertises regarding the assessment of the effectiveness of the proposed rescue plans.

**Automation:**
- Elaboration and introduction of unified forms for identifying the creditors who present and their representatives, as well as calculating the right of vote of each of them according to the approved list of the approved receivables in the rescue plan.

**Obligatory stage 4: Completion of the bankruptcy proceedings**
The bankruptcy proceedings are terminated in the hypotheses of Art 735 of the Commercial Law.

Changes needed include:

Improvement of the legislative framework regarding the final creditors’ meeting and creation of a mechanism for solving the problem with the chattel that cannot be sold.

**Optional stage: Resumption of bankruptcy proceedings**

Discontinued bankruptcy proceedings can be resumed by court ruling provided, if:
- within a year after the discontinuation the amounts allocated for contested claims are released, or assets, the existence of which was ignored during the bankruptcy proceedings, are discovered
- the approved rescue plan is not fulfilled.

**Optional stage: Restoration of the rights of the debtor**

There are two separate types of prerequisites for restoration:
- If a debtor has paid in full claims accepted in the bankruptcy proceedings and the related interest and expenditures;
- The rights of a debtor shall be restored also in case of non-full payment of debts if the bankruptcy is due to adverse changes in the economic environment.

**Authorities**

Bankruptcy is court proceeding from beginning to end.

**Court of first instance for bankruptcy cases** is the district court at the seat of the merchant. Single judge sits at a court of first instance. In Bulgaria, there are 28 district courts.

**Second instance** for bankruptcy cases is the court of appeal. 3 judges hear a case. There are 5 Courts of Appeal.

**Last instance** is the Supreme Cassation Court. 3 judges hear a case.

Bodies involved in bankruptcy proceedings:
- bankruptcy court: bankruptcy panels;
- trustee in bankruptcy;
- creditors’ meeting, and
- creditors committee as a facultative body

Powers of the Minister of Justice under the Commerce Law:

To appoint a person as a trustee in bankruptcy, he must be included in a list approved by the Minister of Justice. The court appoints a trustee for a particular bankruptcy case with a judicial act. The Commerce Law entitles the Minister of Justice, in case the trustee violates his functions, to strike him off the list, and the court is obliged to dismiss him. The Ministry of Justice, through its controlling powers over the trustee, can influence the bankruptcy proceedings in which the trustee is one of the main bodies.
The powers of the Ministry of Justice are under the Judiciary Act and are exercised by Judicial Activity Directorate. It consists of judicial inspectors who perform inspections in all district courts and courts of appeal on the organization of the institution and progress of the cases, including bankruptcy ones. Especially important is the control over the progress of the proceedings as the bankruptcy cases are special cases because the court has both functions of jurisdiction and of administering the proceedings.

On finding a violation of the organization or progress of a case by the judge, the Minister of Justice is entitled to make proposals to the Supreme Judicial Council for institution of disciplinary proceedings.

In pursuance of the Memorandum with the International Monetary Fund, the Bulgarian Government has created in the Ministry of Justice a structure for training, selection and control over the activity of the trustees. The Ministry of Justice organises seminars for qualification of judicial staff. Therefore, this structure needs a further development.

With a Law of 30 November 1999, an Agency of State Receivables was established within the Ministry of Finance. It represents the State in the bankruptcy proceedings in the cases when the State is a creditor.