



# Restructuring in bankruptcy: recent national case examples

Introduction

Main reasons for bankruptcy

Regulations relating to bankruptcy

Position of employees

Government and social partner support

National reports

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*Cases of bankruptcy generally have more serious consequences for the workers who lose their jobs as a result since, unlike other cases of restructuring, the company concerned might have little or no possibility of providing support, either financial or practical. The number of bankruptcy cases has increased significantly in many countries as the global recession has deepened and spread. This report examines cases of bankruptcy over the past year in order to gain a better understanding of what they involve, the kinds of company affected, the reasons for their difficulties, the consequences for the workers concerned and the support that they receive.*

## **Introduction**

Bankruptcy is the worst-case scenario for companies. A company which reaches this point will be in an unsustainable financial situation with few options for escape. For the workers concerned, this is likely to add to their problems in finding a new job. Due to the nature of bankruptcy and the circumstances in which it occurs, the procedures and legislation in place in a country are of major importance in assisting both companies and workers who find themselves in this situation.

Over the year up to mid 2009, the number of bankruptcies has increased in most European countries. Some countries have been particularly badly affected. For example, in Denmark, the number of bankruptcies rose by 85% between May 2008 and May 2009, despite 2008 being already a record year in this respect. Moreover, in Spain, the number of companies beginning insolvency proceedings increased by 167% between the first quarters of 2008 and 2009. On the other hand, other European Union Member States have experienced much more modest increases. In Austria, for instance, the number of bankruptcies rose by 9% in the first half of 2009 compared with one year earlier. In Cyprus and the Czech Republic, there was no reported increase in bankruptcies, reflecting the fact that in both cases the economic recession has been slow to spread to these countries; nonetheless, in the Czech Republic, a rise in bankruptcies was expected in 2009.

Nor have cases of bankruptcy been evenly spread across sectors of the economy, reflecting the differential effect of the economic downturn. Overall, the construction, textiles, wholesale and retail trade, manufacture of wood products, manufacturing, hotels and restaurants, and automotive sectors have been particularly affected by bankruptcies in a significant number of countries across Europe.

## **About the study**

This comparative analytical report aims to illustrate the different characteristics of bankruptcy and the nature of the associated proceedings in different countries, focusing on the year up to the spring of 2009. It first examines the economic sectors affected and the reasons for this. The report then describes the bankruptcy regulations in place. It goes on to consider the effects of bankruptcy on the position of workers in the companies concerned and how this differs from their situation in more planned instances of business [restructuring](#). Finally, the study focuses on the role of government and social partners in supporting the workers affected.

The analysis is based on the responses to a questionnaire sent to national correspondents in each of the 27 EU Member States and Norway, who were asked to outline the situation in their countries and to give illustrative examples of actual cases of bankruptcy. Although the study inevitably reflects the correspondents' personal interpretation of the position to some extent, it includes reference to quantitative evidence on the scale of bankruptcy and its incidence across the economy. The report also explains the legislation and administrative arrangements for dealing with companies which become insolvent, as well as any special measures introduced to alleviate the consequences of the global recession on both companies and workers.

The study begins with an overview of the responses to the questionnaire, highlighting the main features and the points of similarity and difference in the situation across the countries covered. It then summarises the position and developments in each of the countries in turn.

## Main reasons for bankruptcy

The causes of bankruptcy vary considerably across countries as well as economic sectors. They can be divided into two main groups, internal and external. The former covers reasons relating to specific characteristics of the company, such as the financial structure or the specific strategy that it followed; the latter encompasses factors such as market structure, input costs, product demand or credit availability. However, the two causes are inevitably interrelated, with external developments typically reinforcing or accelerating internal problems which in many cases were already evident before the onset of the global recession.

### Internal factors

The national reports point to internal problems as being major reasons for the demise of a significant proportion of companies. These problems are usually a result of mismanagement or taking excessive risks, and usually the companies concerned either had long-standing problems or were not prepared for changing market conditions. As a result, when the economic downturn and financial crisis hit, bankruptcy was difficult to avoid. The two main internal factors identified were excessive debts and a failure to develop an effective strategy for competing in the market.

Excessive debts were a widespread cause of bankruptcies in nine countries, according to the national correspondents – Austria, Belgium, the Czech Republic, Germany, Italy, Lithuania, Norway, Poland and Romania. Prior to the financial crisis, borrowing was cheap and companies could therefore take on significant amounts of debt at little cost; however, it became difficult for them to continue servicing the debt when the economic crisis hit and their sales revenue declined. Small and medium-sized enterprises (SMEs), which rely more on borrowing, seem to have been the most vulnerable in this regard.

The crisis not only led to the collapse of economically and financially vulnerable companies; it also hit competitive, but financially weak, enterprises. In particular, companies that began to restructure before the downturn, and had borrowed large amounts of money to do so, suddenly found their sales income falling and a reluctance on the part of banks to extend more credit. For example, in Norway, [Tandberg Data](#) – a global provider of data storage – had been experiencing financial problems since 2007 and underwent restructuring in 2008. The company failed in its attempts to renegotiate its debt repayment schedule and went bankrupt in April 2009.

In addition, companies which had borrowed in foreign currencies, especially those in the new Member States that joined the EU in 2004 and 2007, experienced a large increase in their servicing costs as their domestic exchange rate declined markedly.

The pursuit of an uncompetitive market strategy – although a major internal cause of bankruptcies in many countries – is often difficult to distinguish from external factors, which frequently aggravate the problem. In markets that are highly competitive, slight mismanagement may cost a company its position in the market. Moreover, companies which have not adopted a competitive strategy to assure survival as the market contracts during the economic downturn may be forced out of business as their share of the market declines. For instance, there are a number of examples of mismanagement in the textiles industry in several countries – Austria, Belgium, the Czech Republic, Latvia, Lithuania and Slovenia – and a failure to anticipate the consequences of the international [Agreement on Textiles and Clothing](#) coming to an end in 2005. This [World Trade Organization \(WTO\)](#) agreement had allowed quotas to be imposed on imports of textile products from developing countries. The failure to foresee the effects of this development was compounded by a lack of action during the subsequent three-year period when the EU imposed temporary quotas on imports from China.

### External factors

Throughout the national reports, external factors – usually taking the form of changes in market conditions – are also highlighted as contributing to the demise of many companies. On the one hand, a number of companies have been affected by declining demand for their products while, on the other, several enterprises have been affected by increasing input costs and restricted access to credit.

Moreover, there is evidence in numerous countries of a ‘domino effect’, with the bankruptcy of one company leading to others.

The general contraction of demand during the economic recession has been a major factor, intensifying competition and hitting the weakest enterprises in particular. Companies in the construction, automotive and manufacturing sectors, as well as those in wholesale and retail trade, seem to have been particularly affected. The fall in demand had an especially severe effect because it came so quickly and after high rates of growth in global markets over a number of years. The intensification of competition brought about by contracting markets has particularly affected enterprises in industries specialising in products at the low end of the market where competition is largely in terms of price. For example, in Slovenia, companies found themselves unable to compete with those in other countries in eastern Europe and Asia where labour costs were lower. In 11 of the 15 cases of bankruptcy reported for Slovenia in the [European Restructuring Monitor \(ERM\)](#) over the year up to 2009, this problem was cited as the main reason.

Rising input costs seem to have been a frequent factor underlying bankruptcies in many countries. In markets where there is intense price competition, an increase in input costs can often erode a company’s competitive edge, leading to a decline in demand for its products and, in some cases, bankruptcy. This is identified as a factor in five countries: Estonia, Latvia, Lithuania, Portugal and Slovenia. While some input cost increases were general across countries – such as higher energy prices in Slovenia – others were specific to particular sectors. The rise in the price of wood in furniture and wood-processing industries is cited as a major factor in Estonia, Latvia, Lithuania and Slovenia, which is likely to have been the result of the Russian government increasing export duties on its exports of wood. Russia accounts for a significant share of the global market in this area. For example, in Estonia, as the cost of wood rose, the prices of the final wood products fell.

Another common cause of bankruptcy has been a lack of credit, which is cited as an important reason in over half of the countries. Banks have restricted access to loans for many companies as a result of the economic crisis. In the Czech Republic, for example, over two thirds of the companies covered reported a reduced ability to borrow from banks. The sudden reluctance of the banks to extend credit seems to have affected previously profitable companies. Even companies with a high demand for their products have faced problems because of their customers being unable to find the credit to pay them.

There is also evidence, as noted above, that a significant domino effect has taken place. Increasing numbers of companies have launched petitions for insolvency against enterprises which they are supplying in order to obtain payment, thus in many cases forcing them into bankruptcy. Alternatively, bankruptcy among companies at the end of the supply chain has forced those further down the chain into insolvency. This is especially the case in Lithuania and Romania. In the latter country, the crisis in the construction sector created problems for companies in the woodworking industry, resulting in reduced orders and financial difficulties among forest management companies. In Lithuania, bankruptcies in hotels and restaurants were partly caused by the closure of the national airline, [FlyLAL – Lithuanian Airlines](#), and the cancellation of flights to Lithuania by foreign airlines.

This domino effect has been significant in helping to spread the economic recession across countries. In Slovakia, for example, the companies which were first to be affected by bankruptcies were those exporting to countries where the economic crisis had already hit – companies in the car industry, especially – which then led to declining sales among their domestic suppliers.

In general, no clear-cut answer emerges as to whether management error or external factors have been the most important cause of bankruptcy across Europe. On the one hand, a significant proportion of bankruptcies involved companies which were already in a relatively vulnerable position because of internal failings. On the other, there is evidence that, in some sectors, bankruptcies have been primarily a result of the economic downturn. According to a number of the national correspondents, this was particularly the case in the construction, automotive, and wholesale and retail trade sectors.

The importance of the recession as the major initiating factor appears to vary considerably across countries. In Austria, company failings were considered to be responsible for more than twice as many bankruptcies as the recession in 2008. By way of contrast, in Estonia, the economic downturn has

almost certainly been the main factor behind the big increase in bankruptcies in manufacturing, construction, and wholesale and retail trade.

## **Regulations relating to bankruptcy**

Bankruptcy is a declaration of insolvency determined in a court of law. A company is insolvent if it is unable to pay its debts when they are due or if its liabilities exceed its assets. In general, the basic bankruptcy procedure by which a debtor is declared insolvent is similar across Europe. There are, however, some differences in several countries. In particular, the existence of provisions to give companies a chance to regain their solvency and continue in business varies significantly.

In general, a company either files for bankruptcy itself or has proceedings filed against it by creditors. Failure by company management to file for bankruptcy when the company is insolvent typically leaves it liable to prosecution. The court then appoints a representative – an administrator or receiver – to assess the company’s financial position and report on it. Sometimes, the representative is charged with running the business while this is being done. In the majority of countries, efforts are made to keep the company in operation, in particular by finding a buyer or some other viable solution to its debt problems. In many countries, the possibility exists of trying to agree a restructuring of the debt. If no solution is found, the company is liquidated and the proceeds are distributed among the creditors. This, however, does not always spell the end of the business, which may be sold off, enabling some jobs at least to be maintained.

There are some interesting variations in procedures across countries. In the first place, some differences arise in who can file for bankruptcy, which is linked to the procedures in place. In some countries, insolvency procedures are separate from bankruptcy procedures; in others, preliminary procedures occur before the main proceedings take place. This is the case in Ireland, where bankruptcy follows pre-insolvency procedures. In cases where insolvency procedures are separate and precede bankruptcy procedures, the administrator appointed can file for bankruptcy.

Equally, procedures may vary according to who files for bankruptcy. For example, in Germany, when a company cannot repay its debts, the company alone can file for bankruptcy, while creditors are also entitled to file when liabilities exceed assets. In Spain, if the company itself files for bankruptcy, the managers remain in position, subject to the intervention of an ‘insolvency administration’ composed of a lawyer, an auditor and a creditor. If, however, the proceedings are initiated by the creditors, management is transferred to the insolvency administration.

Once insolvency has been established, a company may be able to continue in business and return to solvency through negotiating a restructuring of its debt with creditors, possibly involving a swap of debt for equity or an extension of the period of repayment. In most cases, a majority of creditors must agree for this to happen. This option exists as a stand-alone procedure in nine countries – Austria, Hungary, Ireland, Italy, Luxembourg, Poland, Norway, Slovenia and Sweden. A notable example in this regard is the moratorium procedure in Hungary, where – as soon as bankruptcy proceedings are initiated – an automatic temporary moratorium is granted to the company against it being sued by creditors if the court, after considering the request, agrees. If proceedings to liquidate the company have already been initiated, they are suspended. The company then has to prepare a plan setting out how it intends to restore its solvency and must convene a meeting with creditors to try to agree a restructuring of debt. If agreement is not reached, the company is then liquidated.

## Company reorganisation

Debt restructuring forms an important part of the more general reorganisation of the business in many countries. For example, in Sweden, reorganisation includes agreement with the creditors to reschedule or reduce debts, but it also involves measures to improve the company's profitability. A reorganisation plan is only approved if it is expected to lead to the company achieving long-term profitability. If a financial arrangement cannot be reached with creditors on a voluntary basis, the court can impose a compulsory reduction in debt. However, of the 100–200 cases in Sweden each year, the majority of companies (60%–70%) end up in bankruptcy.

Reorganisation is viewed as a means of preventing bankruptcy in the majority of European countries. It typically occurs with the agreement of creditors. In some countries, special arrangements are in place to help the companies concerned to improve their chances of successful restructuring. In Slovakia, companies are protected against creditors taking action against them and, if they are unable to pay wages during their attempts to restructure, these costs are covered by a salary guarantee fund for one month during the process.

In some countries, a reorganisation plan is decided by an independent counsellor appointed by the court rather than the company's management. For example, under the newly established procedures in Estonia, introduced in December 2008, the court initiates the reorganisation process and appoints a counsellor to work out an action plan in this regard; only companies assessed as being viable are eligible.

It is not clear, however, how effective reorganisation procedures are. In many situations, bankruptcy may remain the option preferred by creditors as reorganisation of the business could lead to further losses. For example, in Romania, in recent years, only 1% of the companies that filed for insolvency managed to implement a successful reorganisation plan and save jobs.

## Temporary financial assistance

A number of other measures to save companies from bankruptcy are in place across Europe. Several countries have introduced temporary assistance to help companies through the economic recession. In Slovakia, a scheme of this kind was approved at the beginning of 2009 to run until the end of 2010 to provide companies with state aid of up to €500,000. In Sweden, the government announced in December 2008 that rescue loans of €918 million would be available for failing car companies, although at the time of writing the government had not approved a rescue loan to any enterprise.

In Cyprus, the government has intervened in several cases, extending guaranteed loans so that companies could meet their short-term obligations. In Italy, funds have been increased at both national and regional level to finance measures to rescue and restructure businesses, the national funds usually being for companies with 200 or more employees, in high technology sectors, in an industrial district or representing an important part of a supply chain. However, the [European Commission](#) has often criticised measures on the grounds that they constitute illegal state aid.

In addition, several countries have introduced measures to provide credit to SMEs in particular to protect companies at risk of bankruptcy because of the reduced availability of business credit. Examples include Italy, Lithuania and Sweden. In Italy, the government has recently set up a fund for companies in financial difficulties to guarantee their access to credit, enabling them to take out a loan of up to €1.5 million, although this strategy is reported as not having been particularly effective so far. In Lithuania, the Ministry of Economy ([Ūkio ministerija, ŪM](#)) has approved a scheme for small loans as well as one for an open credit fund. In Sweden, loans to SMEs are provided by [ALMI Företagspartner AB](#), a state-owned business partner enterprise.

A number of countries – in particular, Cyprus, Denmark, Latvia, Luxembourg, Malta and Portugal – include no provisions in bankruptcy procedures to keep companies in business once they have become insolvent, although there is always the possibility that a company will be bought out and so safeguard at least some of the jobs. In Belgium, for example, buyers have six months to decide to re-employ the workforce and, if they decide to do so, they must maintain the same terms and conditions as under the

original **collective agreements** in force. In Sweden, the previous owners of the company often buy back the company after bankruptcy, in which case former employees have to be rehired first.

In general, therefore, the basic bankruptcy procedures are similar across countries and the main difference concerns the provisions which exist for returning companies to solvency and long-term viability. The most common measures are simple restructuring of debt and reorganisation of the company together with, in some cases, government loans to replace the lack of credit available as well as funds for restructuring. How effective these measures are, however, remains uncertain.

## **Position of employees**

Employees are affected very differently in the event of bankruptcy compared with other forms of restructuring. Differences often relate to the extent of consultation between the company management and employee representatives, the provision of company support for workers and the implementation of a social plan. Such measures or procedures are difficult to implement in a company which is insolvent.

## **Information and consultation**

In most of the countries under study, consultation with worker representatives is enforced by law. The stage at which consultation takes place, however, is not always before the decision is made to file for bankruptcy. In most cases, consultation is governed by the same legislation that applies to **collective redundancy**, which is that consultation has to take place but only once the company decides on collective redundancies.

Nevertheless, there are some differences in the consultation procedure in the event of bankruptcy in Germany and Slovakia, in particular, where trade unions are the only representatives of employees recognised under the law. However, where trade union membership is less than 30% and, in the private sector, less than 10%, most companies inform workers about their intention to file for bankruptcy. In some countries – Austria, Belgium, Norway, Romania and Sweden – a continuous process of consultation takes place between management and worker representatives on the company's financial position irrespective of the situation. This enables the workforce to be kept informed of developments which could affect them. In Belgium, this system serves, in practice, to overcome the problem that as soon as a bankruptcy is declared the management of the company is taken over by an administrator, thus preventing any consultation with trade unions. In Sweden, companies with over 25 employees and, in Norway, those with over 30 employees, are guaranteed information through representation on the board of directors in certain types of company.

In many countries, however – in particular, Cyprus, Estonia, Ireland, Lithuania, Malta and Portugal – frequently no information is provided to employees and no consultation takes place in the event of bankruptcy. In some cases, employees are not even notified in advance. For example, in Cyprus, there are no formal consultation procedures, with the standard 30-day period of notification of dismissal not applying in the case of bankruptcy, and workers are informed by the receiver.

## **Social plan and other support**

The formulation of a social plan to set out the support to be provided to the workforce tends to be severely restricted by the financial position of the company. Nevertheless, in five countries – Austria, Belgium, the Czech Republic, Germany and Slovenia – the case studies refer to the use of social plans, although these tend to contain less favourable conditions and more limited compensation than in the event of collective redundancies. For example, in Slovenia, social plans to compensate workers for job losses in the event of bankruptcies are typically drawn up, but additional financial support above that stipulated by law is infrequent. In Germany, although a social plan might be formulated, any payments which it provides are limited under the insolvency rules to one third of the company's assets.

The companies themselves, in practice, are unlikely to pay redundancy compensation, given their financial situation. Similarly, other support provided by companies to workers tends to be limited and workers usually have to rely on government assistance.

## **Government and social partner support**

Support provided by governments in most countries includes measures to guarantee the payment of any claims that workers have against their insolvent employers and to ensure that pension entitlement is not affected. Social partners are involved in support measures to a varying extent across countries.

The claims of workers against the companies concerned – such as for unpaid wages, redundancy pay, holiday pay and **social security** contributions – have differing priorities in relation to the claims of other creditors. In a number of countries, such as the Czech Republic, Luxembourg, Malta, Slovakia and Sweden, these payments have to be made before other payments. In Lithuania and Romania, on the other hand, the claims of workers come after the claims of creditors, although companies may not always adhere to the rules. In Lithuania, unpaid taxes and social contributions together with what is owed to banks are, in practice, paid first, before other claims – including those of employees – are met.

The legal requirement that employee claims need to be met first is not sufficient to protect workers against the adverse effects of bankruptcy. In practice, the payment of claims is often considerably delayed, sometimes until after the company has been liquidated.

## **Wage funds**

Funds guaranteeing that workers receive compensation for unpaid wages exist in all countries. These funds, however, differ markedly in the way that they are run and the support that they provide. They are typically financed by employer contributions, general government revenue and even sometimes employee contributions. Payments from the funds are often subject to statutory limits.

Redundancy payments also tend to be guaranteed and usually come out of the same fund as unpaid wages. In most countries, the entitlement to redundancy payment of those losing their jobs because of bankruptcy is the same as in the case of collective redundancies. In some Member States, however, the amount of entitlement differs. For example, in Belgium, the workers concerned are entitled to an additional ‘closing indemnity’. By way of contrast, in certain countries, the compensation is often less because of statutory limits imposed on payments that can be made out of the guarantee fund.

In Denmark, workers who lose their jobs because of bankruptcy are entitled to payment during the notification period and the Employees’ Guarantee Fund ensures that they receive this pay. However, the workers concerned are obliged to seek new employment straight away and they lose their entitlement to pay if they are successful in finding another job.

## **Pension entitlement**

The effect of bankruptcy on workers’ pension entitlement is an issue in several countries. Workers most at risk are those with company pensions. Although safeguards exist in most countries to protect pensions in the event of company bankruptcy, problems can arise. In Ireland, where company pensions are outsourced to insurance companies, deficits can result and workers may not receive the pensions that they had been expecting.

Company pensions are not common in many countries, including the Czech Republic, Denmark, Estonia, Greece, Latvia, Malta, Slovakia and Slovenia. In Slovakia, company pension funds are not allowed by law. In most countries where company pensions exist, the funds are safeguarded by regulations, particularly the requirement that the assets of the fund must be kept separate from those of the business. In Luxembourg, the law also stipulates that companies which have pension schemes must insure them against the risk of insolvency. In Norway, pension funds are required to show all of their pension liabilities each time they publish balance sheets.

Many countries guarantee pension contributions to safeguard the fund. In some cases, employers are legally required to pay contributions into the fund, such as in Romania, where failure to do so is a criminal offence, or in Germany, where companies which take over a bankrupt enterprise are legally bound to cover the pensions of the workers.

In other countries, pension contributions are covered by a special fund in the event of employers not making payment. For example, such coverage is provided by the [Insolvency Service](#) in the United Kingdom (UK) or by the State Social Insurance Fund Board ([Valstybinio socialinio draudimo fondo valdyba](#), [Sodra](#)) in Lithuania.

## **Involvement of social partners**

The involvement of the social partners in bankruptcy proceedings differs across countries. In most cases, they do not play a major role. In a number of countries, however, trade unions provide support and information to their members – sometimes in cooperation with public bodies – to help the workers cope with unemployment. In the Czech Republic, trade unions often operate support funds for their members, financed by their contributions, which give employees affected by bankruptcy a one-off payment. In Denmark, trade unions can also lend money to members in cases where delays arise in payments from the wage guarantee fund.

Procedures in the event of bankruptcy are not typically included in collective agreements in most countries. However, some provision is made in Malta, Slovakia and Sweden. In Malta, there has to be a specific provision in a collective agreement for workers to receive compensation for job loss. In Slovakia, provisions in the event of bankruptcy used to be included in collective agreements and similar measures have started to reappear. For example, the collective agreement concluded by the glass manufacturer [Slovglass](#) stipulates that a period of notice of two to three months is required if jobs are to be cut and that all the workers concerned should receive a standard redundancy payment. In Sweden, although collective agreements seldom include measures specifically relating to bankruptcies, most include provision – through the employee security agreement (*trygghetsavtal*) – for workers who become unemployed, as in the case of bankruptcy.

## National reports

### Austria

#### *Main reasons for bankruptcy*

The number of company bankruptcies in Austria was 9% higher in the first half of 2009 than the same period of 2008. In 2008, the main causes of bankruptcy were internal. Company failings and management negligence accounted for 40% of cases, followed by shortage of capital (17%) and factors external to the company (15%). External causes have increased in importance since 2006 due to businesses that are dependent on raw materials having to face high prices.

The sectors most affected by the current economic downturn are mechanical engineering and the automotive industry. However, the highest insolvency growth rates in the first half of 2009 occurred in the following fields of economic activity: metal and machinery (+53%), glass and ceramics (+44%), paper and publishing (+39%), textiles and leather (+38%), and wood and furniture (+36%).

#### *Regulations relating to bankruptcy*

There are two distinct formal procedures in the event of insolvency: bankruptcy proceedings and 'composition' procedures.

In the case of bankruptcy, all of the assets of the company are divided equally among the creditors and the company is released from all of its debts. Both the company concerned and individual creditors are entitled to file for bankruptcy. However, bankruptcy proceedings can only be initiated if there are enough assets left to bear the costs. If a company does not file for bankruptcy in time, the owner or management is liable to prosecution.

The composition procedure, which is a means of keeping the business in operation, is only possible if a majority of creditors agree to waive part of what they are owed. A method of repayment involving clearing at least 20% of all outstanding debts within two years has to be agreed. This procedure can only be initiated if creditors agree and the court gives approval.

#### *Position of employees*

Every employer must provide the works council with regular information on the company's economic and financial situation and, if requested, consult on this. They also have to inform the works council of any projected change that may have far-reaching consequences for the employees. This includes insolvency.

An imminent insolvency triggers a set of **co-determination** rights for the works council, which has to participate in the regulation of all social matters in the establishment. If the change entails serious disadvantages for a significant proportion of the workforce, the council can demand the formulation of a social plan. The right to conclude a social plan also exists when bankruptcy proceedings have been initiated; however, in this case, the provisions and payments agreed under the terms of a social plan are only admitted insofar as they do not endanger the objective of the bankruptcy proceedings set by the liquidator. A social plan in this case, therefore, tends to contain less favourable provisions. In practice, relatively few companies threatened by imminent insolvency conclude a social plan. For example, in the case of [Hämmerle](#), an insolvent textiles manufacturer in the western city of Dornbirn, the works council put pressure on management to negotiate a social plan.

#### *Government and social partner support for workers*

In the event of insolvency, the Insolvency Payment Fund ([Insolvenz-Entgelt-Fonds](#), [IEF](#)) covers the unpaid wages of employees and what they are owed as a result of the insolvency procedure. The fund

is financed from employers' contributions. Workers who lose their jobs because of companies going bankrupt are entitled to the same redundancy payments as others.

Regulations prevent companies from using company pension funds for their own purpose. In the case of insolvency, employees with an occupational pension receive insolvency guarantee payments amounting to 24 monthly pension contributions.

Both the Austrian Trade Union Federation ([Österreichischer Gewerkschaftsbund, ÖGB](#)), as well as its member unions, and the Chamber of Labour ([Arbeiterkammer, AK](#)) provide advice and assistance to the employees affected. These two social partner organisations have formed a joint body – the Insolvency Protection Association for Employees ([Insolvenzschutzverband für ArbeitnehmerInnen, ISA](#)) – which is responsible for representing employees' interests in court.

## Belgium

### *Main reasons for bankruptcy*

The number of bankruptcies has been high in Belgium for several years. Nevertheless, there were 239% more bankruptcies during the first four months of 2009 than in the same period in 2008, due to the economic recession.

The main reasons for bankruptcies were lack of liquidity caused by delayed payments or non-payment among customers, corresponding to about a quarter of bankruptcies, and high levels of debt from cheap loans taken out prior to the economic crisis. These factors were aggravated by the crisis; some enterprises lost customers and some lost their ability to acquire credit from banks.

Most of the bankruptcies involved SMEs. The worst affected economic sectors were business activities, construction, transport, hotels and restaurants, and wholesale and retail trade. Three major bankruptcies were reported in the ERM during the time period under study, one of which – [Ralos](#), a carpet manufacturer – went bankrupt at the end of August 2008 when the company had significant excess capacity and large financial losses due to fierce competition from Asian producers and a shift in demand towards other floor coverings.

### *Regulations relating to bankruptcy*

In Belgium, three conditions must be fulfilled for a company to be declared bankrupt: it must be trading, unable to pay creditors and insolvent. Bankruptcy is declared by a commercial court at the request of the company concerned, creditors, the general attorney or an administrator assigned by the court.

Three possible situations follow. A bankruptcy leads to the closure of the company and the law on company closure is applied. Alternatively, the company may be bought out, in which case workers may be employed by the buyer, which has six months to decide whether to re-employ them. This was the case for [Gruppo Cordenons](#), a paper manufacturer, which employed 210 people. The third possible scenario is the newly introduced procedure for 'companies' continuity'. If recovery of the business is achievable, the management can ask for a judiciary agreement granting a delay before bankruptcy is declared. A mediator can be appointed and an agreement negotiated between the company and the creditors without intervention from the court. A recovery plan is then formulated. In the event of the company continuing to operate or being bought out following bankruptcy, workers are protected by collective agreements which give them rights to the same level of wages and [working conditions](#).

### *Position of employees*

The management is obliged to inform the works council about the financial situation of the company each year, as well as about every strategic decision that could affect the workforce, and to consult on alternative options when collective redundancies are expected. This requirement is in accordance with the 'Renault Law', establishing an obligatory consultation between the management and the trade unions in case of restructuring, which was drafted after the relocation of a production site of the car

company [Renault](#) in the city of Vilvoorde, northeast of Brussels, in 1997 ([BE9703202F](#)). In the event of company closure, the law states that the employees, the works council or the trade unions should be informed of the decision to file for bankruptcy. In practice, companies tend to declare bankruptcy and then inform the workers.

As soon as bankruptcy is declared, an administrator takes over management responsibilities, thus preventing any consultation with trade unions. In the case of [Ralos](#), no information was given to the trade unions or the works council until bankruptcy was declared. However, through the works council and the annual financial information provided, it was known that bankruptcy was a risk. On the other hand, in companies without a works council, the workers have no information about the financial situation of the company and only learn about the bankruptcy once it is declared.

Workers made redundant due to bankruptcy are entitled to the same compensation as those made redundant in other situations, including redundancy payments and end-of-year bonuses. In addition, in some economic sectors, the workers are entitled to extra payment if they have been employed in the company for at least a year and were made redundant during a specific timeframe.

The trade unions can negotiate a social plan, which might include support measures such as pre-retirement pensions, possibilities of retraining and outplacement. However, companies may be unable to offer assistance because of their financial state.

### *Government and social partner support for workers*

When companies are insolvent and unable to pay wages, a special fund maintained by the national employment office pays workers the amounts to which they are entitled. Company pension funds are managed by an independent body so that pensions are protected in case of bankruptcy.

The role of the social partners is limited to providing information and support to workers who lose their jobs, together with legal assistance to those who are owed unpaid wages. After the bankruptcy of [Ralos](#), the trade unions provided workers with information about their rights and the procedures to follow to find another job.

## **Bulgaria**

### *Main reasons for bankruptcy*

The number of bankruptcies in Bulgaria almost doubled during the first four months of 2009 compared with the same period in 2008. Major reasons cited for the increase were reduced demand, high rents and lack of financing. A number of companies claim that even big discounts cannot attract customers so they are forced into liquidation. According to retail companies, sales have dropped by 20%–40%.

The worst affected companies have been those in the construction sector and the manufacture and sale of construction materials, as well as estate agents. Many SMEs in the automotive, textiles and footwear industries have also been seriously affected. In addition, the transport, hotels and furniture industries have been hit hard. The largest furniture factories in the country – [Napredak](#) and [Plovdiv](#) – have closed down. Furniture retail chains have reported a 30%–60% decline in sales since the beginning of 2009 and orders of manufacturers have fallen by about 35%. The industry is at risk because of the decrease in demand and because the large furniture chains are favouring cheaper goods from Poland and China.

### *Regulations relating to bankruptcy*

The law obliges any trader which is bankrupt or overly indebted to initiate bankruptcy proceedings in the district court within a period of 30 days. Failure to file for bankruptcy at the appropriate time may lead to up to three years' imprisonment. There are also sanctions for companies where bankruptcy is a result of not conducting their businesses properly or of risky deals.

The government has implemented measures to offer financial support to help keep companies in operation. The Bulgarian Development Bank ([Българска банка за развитие](#)) is providing BGN 500 million (€256 million as at 9 November 2009) to assist SMEs. However, companies have been reluctant to avail of this facility in the present environment and are cautious about borrowing more despite low interest rates.

### *Position of employees*

The law does not require an employer to consult with the labour force or employee representatives in the event of bankruptcy. However, the employer is obliged to provide information to and consult with the trade unions or worker representatives when deciding collective **dismissals**, including in the case of bankruptcy. The court may judge mass dismissals to be illegal if employers do not meet their obligations.

In Bulgaria, companies going bankrupt rarely attempt to provide financial or non-financial support for workers. In practice, companies which include provision for financial compensation in case of redundancy in employment contracts are unlikely to pay this in the event of bankruptcy.

### *Government and social partner support for workers*

The special fund ‘Guaranteed takings of workers and employees’ (GTWE) – managed by the National Social Security Institute ([Националният осигурителен институт, NSSI](#)) – guarantees employees’ wages in the event of company insolvency, up to a statutory limit. The fund is financed by employer contributions. Workers who lose their jobs because of companies going bankrupt are entitled to the same redundancy payments as workers made redundant in other circumstances; these payments are also protected by the GTWE.

The Social Security Code protects contributions made to occupational pension funds.

In principle, collective agreements can contain clauses relating to bankruptcy, although it is still exceptional for them to do so. When such clauses are included, they are often related to the general agreement for higher compensation in cases of job loss.

## **Cyprus**

### *Main reasons for bankruptcy*

Up to mid 2009, Cyprus had largely escaped the effects of the international financial crisis and no major cases of bankruptcy arose over the preceding year.

### *Regulations relating to bankruptcy*

There are three stages to bankruptcy proceedings in Cyprus. First, a formal application for a bankruptcy order in the case of individual businesses or for liquidation in the case of companies is filed either by the company concerned or by creditors. A temporary receiver is then appointed to examine the financial position and assets of the company. Thirdly, the creditors agree how the proceeds from the sale of the company’s assets are to be distributed among them.

No standard procedures are in place to save bankrupt businesses and the associated jobs. However, in two restructuring cases, the government guaranteed a loan so that the companies concerned could meet their short-term financial obligations and maintain jobs. The two enterprises, [Cyprus Airways](#) and [Kofinou Central Slaughterhouse](#) – both semi-state companies – faced serious financial problems following Cyprus’s entry into the EU. The government’s intervention and its role in formulating a restructuring plan helped the companies to become viable again, thereby avoiding bankruptcy and job losses.

### *Position of employees*

Management is obliged to inform workers about the company's situation under legislation for 'the protection of employees' rights in cases of employer insolvency'. The temporary receiver has to notify the workers affected of the situation in writing within a month.

In the event of collective redundancies, the law states that these can become effective no earlier than 30 days after being announced. However, this is not the case for bankruptcy-related redundancies and there are no formal procedures to consult with workers. Moreover, companies going bankrupt do not typically attempt to provide advice and guidance to workers or practical assistance to find new jobs.

No special social plans apply in cases of bankruptcy. Workers who lose their jobs have the right to compensation from the redundancy fund and are therefore entitled to the same compensation as those made redundant in other situations.

### *Government and social partner support for workers*

All outstanding payments to employees are safeguarded by a special fund established to cover workers against bankruptcies and financed by 16.6% of employer contributions. To be entitled to payment from the fund, employees must have had their employment terminated due to insolvency and have been employed in the company for at least 26 weeks beforehand. However, no regulations exist to prevent companies in financial difficulties from using a company pension fund as a means of covering their debts or as a source of borrowing.

Trade unions actively support employees losing their jobs. For example, the Pancyprian Federation of Labour ([Παγκύπρια Εργατική Ομοσπονδία](#), [PEO](#)) maintains a jobseekers office. Bankruptcy procedures are fixed by law and are therefore typically not included in collective agreements.

## **Czech Republic**

### *Main reasons for bankruptcy*

The number of bankruptcies in the Czech Republic in the first few months of 2009 was no higher than in 2008. There have been two major causes of bankruptcy. The first is a lack of new orders due to increased competition from abroad or reduced demand. The Czech textiles industry has faced a permanent decline in orders due to increased competition from Asia. In April 2009, exports were 23% lower than a year before. A slump in neighbouring economies has caused problems in many export-oriented companies, especially in the automotive and mechanical engineering industries. The second reason for bankruptcy is a lack of credit available from Czech banks. More than two thirds of companies have experienced reduced access to bank loans, especially SMEs.

In 2008, the largest number of bankruptcies occurred among glass and porcelain manufacturers. These included [Karlovarský porcelán](#), [Sklo Bohemia](#) and [Crystalex Nový Bor](#). Their demise was due to high levels of debt that could not be repaid during the economic crisis and the refusal of banks to provide further credit. Textiles and glass manufacturers were already in difficulties – which were aggravated by the crisis – while the recession was the main reason for bankruptcies in the automotive and construction sectors.

### *Regulations relating to bankruptcy*

Bankruptcy proceedings may be initiated by the company or its creditors. However, if companies file for bankruptcy, they may receive protection from creditors and a postponement of repayment of loans for up to four months. During this moratorium, bankruptcy cannot be declared and the company is entitled to settle debts to secure the operation of the company. It is also protected against the termination of contracts for the delivery of energy and raw materials, goods and services. The moratorium must be agreed by all creditors. In practice, creditors often prefer bankruptcy because a moratorium tends to be unsuccessful in preventing bankruptcy – such as in the case of the glass manufacturer [Kavalier](#).

Bankruptcy can end in various ways. The first outcome is liquidation and the appropriation of the proceeds by creditors. The second approach is reorganisation, which has occurred mainly – but not exclusively – in cases where companies have annual turnover of at least CZK 100 million (€3.9 million as at 9 November 2009) or over 100 employees. Reorganisation can be initiated only with the consent of creditors. Its aim is to improve repayment possibilities and preserve the company. In practice, bankruptcy is the most frequent result. However, if a buyer interested in continuing to operate the company is found, it might be preserved. For example, [Karlovarský porcelán](#) was sold to [Hengis](#), which bought four plants and took on 80% of the employees.

### *Position of employees*

In accordance with the Labour Code, the employer must inform employees – directly, if there is no trade union or works council – and discuss the effect on the company of the intended restructuring and employment-related measures. In the case of bankruptcy, trade unions tend to participate actively and attempt to negotiate with employers. In rare instances, companies might offer legal or psychological support.

Adoption of a social plan for supporting employees is not usual. However, they have been formulated in some cases. At local level, the western Carlsbad Region (*Karlovarský kraj*) granted interest-free loans with the possibility of delayed repayment to employees of a porcelain manufacturer who were in financial difficulties as a result of the company going bankrupt; the workers had not received their wages and were not entitled to social benefits.

In both collective redundancies and redundancies resulting from bankruptcy, the compensation to which workers are entitled is the same. However, in cases of bankruptcy, claims for severance pay take longer to be processed and are frequently less successful.

### *Government and social partner support for workers*

If an employer has filed for bankruptcy or is in moratorium, the Labour Office can pay employees' wages amounting to a maximum of three months' pay. If employees are not paid their wages after the bankruptcy has been filed, they may claim them in court or through a civil action. Under an amendment soon to be introduced, insolvent companies will have to pay wages to employees before paying other creditors.

If employees are given notice due to the bankruptcy of the company or if they terminate their employment after not being paid wages within 15 days following the due date, they are entitled to the same severance pay as others whose employment contract is terminated. Unless prescribed by collective agreement, the severance pay amounts to at least three times the average pay. Measures are in place to ensure that workers receive what they are entitled to.

At company level, the role of the social partners is to participate in the mutual exchange of information and cooperate with the Labour Office. At sectoral level, trade unions often have support funds to which their members contribute and from which they can receive a one-off payment in the event of company insolvency. The trade unions also provide legal advice and assistance for job search. However, assistance is for members only – who represent just 20%–30% of all employees. At national level, the Czech-Moravian Confederation of Trade Unions ([Českomoravská konfederace odborových svazů](#), [ČMKOS](#)) has established advisory centres in all regions for people who lose their jobs due to the current economic situation.

## Denmark

### *Main reasons for bankruptcy*

The latest figures from Denmark show an increase of 85% in the number of bankruptcies from May 2008 to May 2009, despite 2008 being a record year for bankruptcies. The economic recession has caused a decline in sales and the financial crisis is leading banks to curtail credit. There are some cases of companies whose economic situation changed rapidly due to customers not paying their bills and because they were unable to obtain loans from banks. Although company failings have also contributed to the problem, the big increase in bankruptcies appears to be mostly due to the economic downturn and the financial crisis.

The construction and wholesale and retail trade sectors have been particularly hit due to falling sales. There has also been an increase in bankruptcies in the financial intermediation sector, including economic activities providing services to the industry. Newer companies are worse affected than others, suggesting that a lack of a well-developed customer base causes difficulties when recession hits.

However, the economic crisis alone does not always fully explain bankruptcies. The largest bankruptcy in 2008 was that of [Sterling Airlines](#) and the second largest was that of the free newspaper [Nyhedsavisen](#). In both cases, the companies had one sole owner, whose personal financial problems in the wake of the crisis played a significant role in their collapse; nonetheless, both companies had already been experiencing financial difficulties for some time in their respective highly competitive fields of activity. There have been fewer bankruptcies of companies owned by equity funds than of others, equity funds tending to retain ownership of companies until they can sell them.

### *Regulations relating to bankruptcy*

The bankruptcy law (*Konkursloven*) specifies the formal procedures to follow in cases of bankruptcy. The company must announce its insolvency to the bankruptcy court and give information about its assets, which it is then prevented from disposing of. The bankruptcy court appoints a lawyer, who, for the first three weeks, replaces the existing company management and tries to preserve jobs – by, for example, seeking a buyer – before acting as the administrator in distributing the company's assets among creditors.

### *Position of employees*

The law specifying the requirements for notification in the case of restructuring involving collective redundancies is not applicable in the event of bankruptcy. It is up to the company to decide the procedure to follow and no typical behaviour is therefore apparent. However, there are examples of companies trying to keep their workers informed throughout the process. It is not common practice for the companies concerned to provide support for workers in the form of advice and guidance or practical assistance to find new jobs. Workers being dismissed as part of collective redundancy can negotiate a resignation agreement. This is not the case in the event of bankruptcies.

### *Government and social partner support for workers*

In cases of bankruptcy, the Employees' Guarantee Fund ([Lønmodtagernes garantifond](#), LG) ensures that workers receive the wages owed to them. The fund is run by the social partners and is financed jointly by employers, who are obliged to contribute to it. The LG covers wages, pensions and holiday pay. If the company has assets, the LG has first call on these over the creditors.

Workers who lose their jobs because of bankruptcy are entitled to payment during the notification period and the LG ensures that they get this. They are therefore in principle entitled to the same redundancy payments as other workers. However, workers whose employer has gone bankrupt are obliged to seek new employment straight away and lose their entitlement to pay if they find other

employment. There can be serious delays in payments from the LG and trade unions can extend loans to their members in these cases.

In Denmark, pension funds are administered by the trade unions, and the employers transfer contributions to them every month. The workers affected by company bankruptcy cannot, therefore, lose their entitlement to a pension.

## **Estonia**

### *Main reasons for bankruptcy*

The downturn in the market is one of the most cited reasons for bankruptcies, which have increased markedly in Estonia during the economic recession. The largest number of bankruptcies has been in the wood-processing industry, which faced restricted supply and increased prices of raw materials when Russia imposed customs charges on wood exports. At the same time, the prices of the final products fell, creating financial difficulties. For example, the [Baltic Panel Group](#), a wood product manufacturer, went bankrupt in May 2008.

In addition, many bankruptcies have occurred in the construction sector, which suffered a steep decline in the demand for houses. Many of the enterprises created during the housing boom have been forced to close as a result. Examples include [Merkanter](#), the construction company [Hansahouse](#), the indoor climate systems company [Sisekliima](#) and the project management enterprise [Random Projekt](#).

Since 2008, the number of insolvency payments has increased threefold in manufacturing and almost fourfold in wholesale and retail trade; moreover, there have been 15 times as many insolvency payments in the construction sector. This development is almost certainly due to the recession.

Many of the companies concerned have been less than 10 years old. Even enterprises with low productivity and no viable long-term development strategy were able to do well in the period of high economic growth; however, this is no longer possible. Furthermore, companies that initially seemed to be successful have also been hit. An example is [Beetak](#), a company producing fish products, which had profits of €1.4 million in 2006, but which reported losses of €3.1 million in 2007, due to social unrest at the end of April 2007 which blocked its exports to Russia. These difficulties were further heightened by cheap fish products coming to the European market from China, thus hindering competitiveness. The recession compounded this troubled financial situation.

### *Regulations relating to bankruptcy*

In Estonia, a bankruptcy petition can be filed by either the company or a creditor. In the event of a declaration of bankruptcy or abatement of the bankruptcy proceedings, companies are allowed to terminate both open-ended and fixed-term employment contracts before the prescribed time, with no requirement for a period of notice. During the bankruptcy proceedings, an appointed trustee identifies the workers who have not received any pay and passes their details to the Unemployment Insurance Fund ([Töötukassa](#)).

An 'enterprise reorganisation' measure was introduced in December 2008 to try to rescue companies in financial difficulties. Under the measure, a reorganisation counsellor appointed by the court has the task of formulating an action plan to restructure the company; only those assessed as being viable are eligible. An analysis conducted prior to the implementation of the measure estimated that about one in eight of all the companies going bankrupt could have been saved in 2006 under the new provision and some 800 jobs could be preserved each year as a result of the measure.

### *Position of employees*

In cases of bankruptcy, where no collective redundancies apply, there is no requirement for advance notice. It is, therefore, to be expected that employers will fail to inform and consult their workers in advance. This has been the case in a number of recent instances where workers have not been informed or consulted.

Usually, no social plan is drawn up in cases of bankruptcy. However, in most cases, the compensation paid to workers is statutory and financed in large part by the Unemployment Insurance Fund, as employment contracts are often not terminated before the company has been declared insolvent.

### *Government and social partner support for workers*

The Unemployment Insurance Fund pays an employer insolvency benefit. Under this provision, an employee is entitled to any unpaid salary, holiday pay or benefits. However, limits are placed on the maximum amounts that can be claimed. Normally, on termination of the employment contract, the employer must pay benefits to workers. In cases where companies have already been declared insolvent, the Unemployment Insurance Fund covers the payment but the employer insolvency benefit will be smaller than that received in other redundancy cases.

Pension entitlement is not affected by bankruptcies as no company pension schemes exist in Estonia.

There are no unified schemes among social partner organisations to support workers in the event of bankruptcies. Arrangements in relation to company bankruptcy are not common in collective agreements and the coverage of these is in any case relatively narrow, at about 25%. Some trade unions have financial support measures. For example, the Estonian Seamen's Independent Union ([Eesti Meremeeste Sõltumatu Ametiühing, EMSA](#)) has introduced unemployment support for its members, which is payable for three months at 10% of the average wage of the worker concerned over the previous six months; this includes financial support in cases of bankruptcy. In addition, larger trade unions provide counselling to their members who are made redundant.

## **Finland**

### *Main reasons for bankruptcy*

The main cause of bankruptcy among companies in Finland over the year up to mid 2009 has been the downturn in the market. Half of all the bankruptcy proceedings during the last three years have involved self-employed people. Some 16% more bankruptcy proceedings were instituted in 2008 than in 2007, and 26% more employees were affected than in 2007.

### *Government and social partner support for workers*

The wage security system, operated by the Ministry of Employment and the Economy ([Työ- ja Elinkeinoministeriö, TEM](#)) alongside the Employment and Economic Development Centres ([Työ- ja Elinkeinokeskus](#)), ensures that employees receive unpaid wages and other amounts that they are owed in the event of a company bankruptcy or in other cases when employers are unable to pay. The maximum amount that is secured per employee for work performed is €15,200. Claims paid in this way, together with interest, are recovered by the state from the company or its assets. The unemployment insurance fund, financed by employers' contributions, covers the difference between the amounts paid as wage security and the amounts recovered from former employers.

## **Germany**

### *Main reasons for bankruptcy*

The number of companies filing for insolvency in Germany increased by about 10% in the first quarter of 2009. The main reasons were the inability of companies to pay their debts and because their liabilities exceeded their assets. The economic recession probably accelerated the demise of companies which were already struggling.

## *Regulations relating to bankruptcy*

Grounds for filing for insolvency are the inability to repay debts when they are due or when liabilities exceed the assets of the company. In the former case, the company alone can file for bankruptcy, whereas creditors are also entitled to file for insolvency in the latter case. If bankrupt companies do not file for insolvency within three weeks, the management is liable to prosecution.

Insolvency proceedings are only initiated if the court is convinced that the company is insolvent and that sufficient assets are available to cover the court fees and the costs of administration. An administrator is appointed to secure the company's assets, negotiate with potential investors and compile a report on its economic situation. This report is discussed with creditors. If a decision is taken to close the company, all assets are liquidated and the proceeds are distributed among the creditors.

The management of a bankrupt company can develop a strategy for rescuing the enterprise and draw up an insolvency plan. This option was pursued by the clothing retail chain [Sinn Leffers](#), which filed for insolvency in August 2008. Such plans must be approved by the insolvency court and the creditors. In addition, a trustee must be appointed to supervise the company's management and be consulted on all important business matters. In the case of Sinn Leffers, 24 out of 47 stores were maintained.

## *Position of employees*

In general, filing for insolvency does not exempt employers or insolvency administrators from the regulations governing collective dismissals. Workers are therefore usually informed about the measures planned. Consultation on procedures and compensation for job losses is usually conducted with the works council. However, the Insolvency Code permits certain deviations from the standard regulations. The insolvency administrator must try to reach an agreement with the works council covering the workers to be dismissed, redundancy procedures and social plans. The Insolvency Code reduces the criteria for selecting those to be made redundant to three variables: seniority, age and maintenance obligations. If the parties are unable to reach an accord, the administrator can call on the local labour court to approve the planned changes without the consent of the works council.

Bankrupt companies are legally bound to satisfy the claims of workers affected by dismissals. In some cases, further support is provided to staff. For example, reassigned workers may be paid by a transfer agency, which assesses the need for continuous training measures and coaching of job applicants. The general framework is usually outlined in the social plan negotiated by the insolvency administrator and the works council. For example, at the information technology memory supplier [Qimonda](#), in April 2009 about 2,650 employees joined a transfer agency and received 70%–77% of their former net wages. However, payments are subject to limits and no more than one third of the assets available can be used to satisfy claims arising from the social plan.

## *Government and social partner support for workers*

Insolvency benefits (*Insolvenzgeld*) protect workers from wage losses incurred when employed in a bankrupt company. Workers need to apply to their local employment office for insolvency benefit within two months. It covers 100% of their net wage and the employment office pays their statutory social contributions.

Workers have no general legal entitlement to redundancy compensation but are entitled to payments that have been agreed between the employer and employees. In general cases of collective redundancy, employees are granted the right to sue for compensation if the employer has seriously contravened agreements or if the employer did not seriously try to negotiate a compromise to protect employees' interests with the works council.

Contributions to occupational pension schemes are usually paid to a third party, such as a pension fund, which subsequently distributes the pension payments to workers. In cases of insolvency, two main scenarios exist. In the first, a new investor takes over the bankrupt company. This investor is legally bound to cover the pension claims of the workers. In the second scenario, a company files for

insolvency and is dissolved. In this case, company insurance takes effect. The Pension Protection Fund ([Pensions-Sicherungs-Verein auf Gegenseitigkeit, PSVaG](#)) accepts the costs of the outstanding occupational pensions accumulated by workers up until the insolvency.

## **Greece**

### *Main reasons for bankruptcy*

The bankruptcies that have occurred in Greece over the past year have largely been due to deficient planning by company management and competitive pressures resulting in reduced profitability and liquidity. The situation has been aggravated by banks tightening restrictions on access to loans as a result of the financial crisis. For example, fierce competition in the fish farming industry led to a decline in profit margins, giving rise to liquidity problems because banks did not continue providing credit. This caused [Hellenic Fishfarming](#) to become bankrupt. In addition, in the telecommunications industry, the unfavourable financial situation of [Altec Telecoms](#), combined with the economic downturn and reduced lending from banks, compelled the company to stop operations. There have also been cases where bankruptcy has resulted from a shrinking market. An example is [Sevath](#), a company which produced industrial tomatoes.

### *Regulations relating to bankruptcy*

Companies are given an opportunity to propose a restructuring plan before being forced into a suspension of payments. The main aspects of this procedure are: the company's submission of the plan; the creditors' acceptance of the plan by a majority; the definition of creditors' rights; judicial intervention during the preliminary examination; acceptance, ratification or cancellation of the plan; and the possibility of imposing a provisional ban on the company divesting itself of its assets. In addition, the restructuring plan concerns not only the company's rescue and development but also the distribution of its assets.

This means that a company may remain in operation even if it has filed a bankruptcy application. In practice, in the majority of cases, the restructuring plans that are submitted so that a company can continue in business involve downsizing. However, if the creditors reject the restructuring plan, liquidation is initiated and the workers are considered dismissed.

### *Position of employees*

Companies going bankrupt have no obligation to consult with trade unions. In most cases when creditors accept a restructuring plan, the workforce is expected to be reduced mainly through redundancies. Moreover, companies filing for bankruptcy do not have to consult with trade unions over the compensation or support that they provide to their workers, nor do they have to offer them advice, guidance or practical assistance to find new jobs.

When submitting a bankruptcy application, a company is not obliged to submit a particular plan for the workers who will lose their jobs. On the other hand, workers losing their jobs through company bankruptcy do not tend to receive smaller amounts of financial compensation than in other cases of staff reduction.

### *Government and social partner support for workers*

A fund exists to protect workers against their employer's insolvency, which is funded by employer contributions and the government. The fund pays wages that have been outstanding for up to three months due to employer insolvency.

Occupational pensions are not widespread in Greece and tend to be in large public companies. In practice, therefore, bankruptcy does not give rise to an issue of workers losing their occupational pensions.

The government tends to intervene in special bankruptcy cases when, for example, a region is faced by a serious unemployment problem or a company employs a large workforce. This can take the form of training programmes, paying benefits for a longer than normal period or more favourable arrangements for early retirement.

## **Hungary**

### *Main reasons for bankruptcy*

The number of liquidations has grown considerably in Hungary since the onset of the economic crisis and was 30% higher in mid 2009 than a year before. The main reasons for bankruptcy have been the downturn in the market and accumulating debts, which often result in a chain reaction with the insolvency of one company leading to the insolvency of its creditors. Over the past year, the construction sector has been most affected by bankruptcies.

### *Regulations relating to bankruptcy*

Bankruptcy proceedings are initiated by the court at the request of either the company concerned or its creditors. An automatically authorised temporary moratorium is then granted to the company and any liquidation procedure already initiated is suspended. When the court orders the moratorium, it delegates a bankruptcy trustee to supervise the operation of the company and informs creditors of its financial situation. The company then has to prepare a plan for restoring solvency and to convene a meeting with creditors to agree this plan. The agreement of a majority of creditors is sufficient to conclude a settlement. If no settlement is reached, liquidation procedures begin and, although it is possible to conclude a settlement during this procedure, stricter rules apply than before.

A wage subsidy funded by the Labour Market Fund ([Munkaerőpiaci Alap](#)) or regional development funds may be granted to an employer planning collective redundancies. The scope, however, is limited.

### *Position of employees*

Within 15 days following the request for bankruptcy, the company's chief executive officer (CEO) or the liquidator must inform employees, the trade unions and the works councils about the effect on workers. The law, however, does not specify the details of the information to be provided.

If the company plans to carry out collective redundancy, it must consult with the works council, trade unions and employee representatives at least 15 days beforehand and inform these parties of the reasons for the collective layoffs, the groups affected and the number of workers involved. The employees must also be informed about their dismissal 30 days in advance.

Companies going bankrupt sometimes attempt to provide support for workers in the form of advice, guidance and practical assistance to find new jobs, either through public employment services, by involving an external expert or by providing free internet access to assist their job search.

Employees are entitled to severance pay if the employer terminates their employment contract or if the company ceases to exist. The amount is the same in cases of bankruptcy as in other cases of dismissal; moreover, collective agreements or individual employment contracts may include provision for higher compensation than the mandatory amount.

### *Government and social partner support for workers*

Companies in liquidation can request help from the Wage Guarantee Fund ([Bérgarancia Alap](#)) to pay wages, holiday and sick pay, and severance pay to employees. The company has to repay the fund within 60 days or on the day before the submission of the closing balance. The maximum wage guaranteed by the fund is five times the average wage two years prior to the year of the request.

In Hungary, company pension funds are not common and have only been legally allowed since 2007. Nevertheless, regulations prevent companies from using these funds for business purposes.

## **Ireland**

### *Main reasons for bankruptcy*

In general, company bankruptcies in Ireland over the past year appear to be attributable to competitiveness problems accentuated by a downturn in the market. In recent months, there has been a steady increase in corporate insolvency. The reasons for bankruptcy appear to be broadly similar across economic sectors. However, bankruptcies over the 12 months up to mid 2009 have been most common in the construction and manufacturing sectors, as well as the food industry.

Some previously well-performing companies have gone out of business. For example, for many years, the glass manufacturer [Waterford Crystal](#) was widely regarded as one of Ireland's success stories and was highly profitable. However, it went into receivership in early 2009 due to external competitive pressures and internal financial difficulties.

### *Regulations relating to bankruptcy*

The bankruptcy regime in Ireland is severe and is likely to remain a last resort for both debtors and creditors. Once declared, bankruptcy lasts for at least 12 years. Bankruptcy law applies only to individuals – in the case of companies, it applies to the directors or owners. Bankruptcy proceedings can be initiated by a creditor or the debtor. To open the proceedings, the debt to be liquidated must amount to more than €2,000 and the debtor must reside in the country. When someone is judged to be bankrupt, their property is vested with the official assignee, who deals with all practical aspects of the day-to-day running of the bankruptcy, including disposing of the assets and certifying the creditors. The bankrupt person is required to disclose all property to the court and to deliver to the official assignee all of their property and all books and papers relating to their estate.

Following liquidation, debtors may be discharged if they have paid off all debts and costs plus interest. On discharge, they are allowed to set up a business in the same way as anybody else. An un-discharged bankrupt individual is not entitled to operate a bank account and is prohibited from being a company director or from being involved in the management of a company.

During pre-insolvency, debtors can petition the court for protection from bankruptcy proceedings so that they can try to make an offer to creditors. If this approach is not accepted by at least three fifths of the creditors or not approved by the court, then the court can declare the debtor bankrupt.

### *Position of employees*

Standard notification and consultation procedures apply to collective redundancies brought about by bankruptcy. However, notification to employees is not required. In practice, companies filing – or planning to file – for bankruptcy do not typically consult with their workforce or worker representatives over procedures or compensation for job losses. In addition, companies going bankrupt do not usually attempt to provide support for workers in the form of advice and guidance or practical assistance to find new jobs.

Social plans to compensate workers for job losses are not usually drawn up. Workers losing their jobs due to company bankruptcy tend to receive smaller amounts of financial compensation than in other cases of collective redundancy, often only receiving a statutory redundancy payment.

### *Government and social partner support for workers*

The Insolvency payments section of the Department of Enterprise, Trade and Employment ([An Roinn Fiontar, Trádála agus Fostaíochta](#)) processes claims from employees for the payment of wages, holiday pay and other amounts owed to them in the event of company insolvency. When the employer is bankrupt or being liquidated, payments are made from the Social Insurance fund.

In the case of pensions, annuity contracts are purchased from insurance companies under which the pension fund gives the insurance companies a lump sum in return for providing pensions to the workers involved. However pension deficits can arise. In April 2009, the Irish government announced a Pension Insolvency Payments Scheme (PIPS), whereby the state provides this annuity rather than private insurance companies in the event of a deficit. However, significant deficits are likely to remain and the PIPS proposal is not designed to guarantee the workers affected the payments that they had been expecting.

It is uncommon for social partners to be involved in providing, or guaranteeing, financial and other support to workers in the event of bankruptcy. However, trade unions are seeking some advance on private sector pensions. For example, at [Waterford Crystal](#), those who have lost their jobs fear the loss of pension entitlements because of the shortfall in the company's retirement fund. The [Unite](#) trade union, which represents the workers, has proposed that novel pension annuity measures be introduced to create a fund to protect pensions.

## **Italy**

### *Main reasons for bankruptcy*

Since 2003, restructuring of the Italian economy has been strongly influenced by the adoption of the euro and, especially, by the increasing competitive pressures from emerging economies. The economic crisis has exacerbated this situation. The principal cause of bankruptcies has been structural difficulties, with the crisis not only accelerating the exit from the market of economically and financially vulnerable companies, but also impacting on competitive – albeit financially weak – enterprises. In particular, companies that began to restructure in earlier years and had borrowed a lot of money to do so suddenly lacked liquidity from customers and/or financiers.

The worst affected sectors of economic activity have been wholesale and retail trade, manufacturing and construction. Sectors with large numbers of SMEs, such as textiles and clothing, the food industry, transport and the manufacture of furniture, have been at particular risk.

### *Regulations relating to bankruptcy*

The company, creditors or the public prosecutor's office may initiate bankruptcy proceedings. Debtors must furnish the court with their accounts and tax records for the previous three years, a statement of assets and a list of creditors at least seven days prior to the bankruptcy hearing. Upon declaration of bankruptcy, the assets of the bankrupt company are administered by an official receiver appointed by the court.

Two important measures aim to keep businesses in operation. The first is 'the extraordinary administration of large enterprises in crisis' procedure, which is a system of rules aiming to assist the recovery of large companies with particular features, such as having 200 employees and a large amount of indebtedness. The second is a pre-bankruptcy arrangement that allows a business in crisis to eliminate all of its debts by means of a debt restructuring plan agreed with creditors.

National and regional funds are in place to help rescue and restructure businesses. The national funds are usually allocated to companies with more than 200 employees, in technologically advanced sectors, in an industrial district or that are part of a production chain. The government has recently set up a fund for enterprises in financial difficulties to guarantee their access to credit, by allowing a company to take out a loan of up to €1.5 million. However, such measures do not seem to have been particularly effective.

### *Position of employees*

All situations in which collective redundancies are possible are subject to similar regulations, including bankruptcy. Employers filing for bankruptcy must communicate their intention to cut jobs to all worker representatives. This information has to include: the reason for the redundancies; the

reasons why the dismissals are unavoidable; and the number, positions and professional profiles of all employees. Once any consultations requested are concluded, the employer can proceed with dismissals.

### *Government and social partner support for workers*

The National Social Security Institute ([Istituto nazionale di previdenza sociale, INPS](#)) manages a specific fund which guarantees payment of the ‘end-of-service allowance’ (*trattamento di fine rapporto*, TFR) and other sums in the event of the employer’s insolvency. The fund is supported by contributions paid by employers.

Workers subject to dismissal, whether because of restructuring or bankruptcy, are eligible for payments from the Extraordinary Wages Guarantee Fund ([Cassa Integrazione Guadagni Straordinaria, CIGS](#)) or the ‘mobility’ allowance (*indennità di mobilità*). However, in cases of bankruptcy, the CIGS is of more limited duration than in other instances.

The social partners do not manage any specific measures to address the effects of dismissals due to bankruptcy, and collective agreements do not include provisions which apply to company bankruptcies. Nevertheless, some bipartite bodies provide support to workers, such as training courses, and to family members, such as the reimbursement of medical expenses for children with disabilities or the cost of school textbooks.

## **Latvia**

### *Main reasons for bankruptcy*

In Latvia, 408 cases of bankruptcy were registered between January and June 2009, compared with 220 cases between May and December 2008. The companies affected were mostly in the wholesale and retail trade sector (30% of the total) and the wood industry (11%). Most of the companies were SMEs.

The retail trade was hit by a decline in consumer expenditure, while the wood industry was affected by a reduction in external demand. However, the main reason for the bankruptcies is reported to be decreasing competitiveness due to cost inflation and a lack of finance. The fall in domestic demand in Latvia is also seriously affecting the construction and transport sectors.

### *Regulations relating to bankruptcy*

Insolvency proceedings include arrangements directed at re-establishing the viability of the company as well as protecting the interests of creditors. Either the company itself or creditors can petition for bankruptcy. If no agreement can be reached with creditors on re-arranging payments, bankruptcy proceedings are initiated, followed by the liquidation of the company. There is a lack of special measures for trying to keep the company in business and avoiding job losses.

### *Position of employees*

Employers are obliged to inform employees, by written notice, of the termination of their employment contract no later than one month in advance. In such cases, workers are entitled to severance pay, which may be larger than the statutory amount if a collective agreement or the employment contract so specifies. The same obligations apply to cases of insolvency, with workers being entitled to the same redundancy payments as other employees.

### *Government and social partner support for workers*

The Employee Claims Guarantee Fund ensures that employees are paid what they are entitled to in the event of the bankruptcy of a company. Since occupational pension funds are not common, most workers are not at risk of losing their pensions in the event of company bankruptcy.

## Lithuania

### *Main reasons for bankruptcy*

In 2008, there were 53% more bankruptcy cases than in 2007, largely because of the substantial economic downturn in Lithuania and in its main export partners.

Even businesses with significant operating profits before the economic crisis have gone bankrupt. For example, the furniture manufacturer [Narbutas and Ko](#) had pre-tax profits of €1.25 million in the first half of 2007. However, the company's orders declined by 75% in November and December 2008, and banks became less willing to provide credit. Companies still enjoying high demand for their products have also faced difficulties as a result of the indebtedness of customers unable to borrow from banks. Enterprises in the construction, real estate, wood processing, manufacture of furniture and textiles sectors have been most affected.

There are a number of sector-specific reasons for bankruptcies. In the hotels and restaurants sector, they were prompted by the bankruptcy of the national airline, [FlyLAL – Lithuanian Airlines](#), as well as the cancellation of flights by foreign companies and the abolition of preferential tax rates for hotels. In the textiles industry, financial problems were heightened by competition from Asian producers after import quotas came to an end. In wood processing and manufacture of furniture, bankruptcies were accelerated by the increased cost of wood and the intensification of competition.

### *Regulations relating to bankruptcy*

Bankruptcy proceedings may be initiated by company chief executives, owners or creditors. The proceedings begin when the court establishes that the enterprise concerned is insolvent, is behind in paying wages or is unable to pay creditors. Upon initiation of the proceedings, the management of the company is transferred to an administrator appointed by the court, who is empowered to liquidate the company if no solution can be found to its financial problems.

No specific measures are in place to try to keep a business in operation and preserve jobs. However, in May 2009, the Minister of Economy, Dainius Kreivys, approved a scheme for small loans and the creation of an open credit fund, designed to help SMEs with limited access to credit.

### *Position of employees*

In general in the case of collective redundancies, employers must begin consulting with employees two to four months in advance. Companies, however, are not obliged to consult with workers or their representatives prior to declaring bankruptcy, except in cases where this is initiated by the employees. Nevertheless, the administrator has to notify the workforce within three working days of the court initiating bankruptcy proceedings. Employment contracts may only be terminated after 15 working days from such notification.

### *Government and social partner support for workers*

In the event of bankruptcy, the claims of creditors are satisfied first, followed by those of the employees. However, in practice, outstanding tax or social contribution liabilities are settled first together with amounts owed to banks, followed by employees' claims.

If the company lacks funds to pay employees for work performed, holiday entitlement and severance, these costs are met from the Guarantee Fund ([Garantinis fondas, GF](#)). Payments, however, are subject to statutory limits, so that employees receive smaller redundancy payments in the event of bankruptcy than in other cases.

Sodra – the State Social Insurance Fund Board – has the power to initiate bankruptcy proceedings in order to protect employees if the company discontinues payment of social insurance contributions.

Although trade union membership in Lithuania is low, sectoral trade unions have attempted to provide both moral and financial support to employees affected by bankruptcy. For example, after the

bankruptcy of the dairy producer [Ignalinos pieninè](#), the trade union acted as intermediary for employees with the local labour exchange, arranged meetings for counselling and gave some financial support.

## **Luxembourg**

### *Main reasons for bankruptcy*

Many of the bankruptcies declared in Luxembourg relate to small businesses. According to the Chamber of Commerce ([Chambre de Commerce Luxembourg, CDC](#)), the highly competitive nature of the market in Luxembourg is the main reason for companies going bankrupt. However, management errors often seem to be an important underlying factor.

### *Regulations relating to bankruptcy*

Any trading company which suspends payments must declare that it has done so to the registrar of the commercial court within the month. Once bankruptcy is declared, the company concerned loses the power to administer its assets and, if the directors of a company are found to have contributed to the bankruptcy through gross negligence, they may be banned from carrying on any commercial activity. The court appoints an official receiver who, in turn, appoints administrators who are responsible for drawing up an inventory of the assets. The creditors are convened by the official receiver to consider agreeing a judicial solution. If no agreement is reached, liquidation occurs.

### *Position of employees*

In principle, companies are obliged to inform the joint works committee about the company's financial situation. A company which goes into bankruptcy is deemed to be in a state of suspension of payments and is accordingly incapable of negotiating a redundancy plan. Moreover, such companies do not typically attempt to provide support for workers in the form of advice and guidance or practical assistance to find new jobs.

### *Government and social partner support for workers*

In the event of a company's bankruptcy, unpaid salaries, wages and other compensation are regarded as preferential debts, which are covered by a guarantee system. Employees are entitled to the continued payment of wages for the month in which the bankruptcy occurred and the following one, as well as 50% of the amount that they would have received if they had been made redundant.

Regulations exist to prevent companies in financial difficulties from using a company pension to cover their debts or as a source of borrowing. In practice, the large majority of such pension funds are external to the business and, moreover, companies with pension schemes have to be affiliated to an authorised organisation which insures against the risk of insolvency.

In general, the social partners have little or no role in the event of bankruptcy. At most, the trade unions can organise briefing sessions and help workers to navigate administrative procedures to claim amounts owing to them, as was the case with the [Boon supermarket](#) bankruptcy in early 2009, which affected 58 workers.

## **Malta**

### *Main reasons for bankruptcy*

There was only one recorded bankruptcy in Malta over the year up to mid 2009. [Fraser Eagle UK](#) went bankrupt, resulting in the closure of the local branch in Malta and 60 job losses. The group specialised in niche transport, travel and logistics.

### *Regulations relating to bankruptcy*

Bankruptcy can be initiated by either the company or the creditors. An official receiver is appointed to oversee the winding up process and an administrator may be appointed to carry on the business during the proceedings and to seek a way of keeping it in operation. In addition, the creditors appoint a liquidator.

There are no specific measures in force to prevent bankruptcies. However, in the only bankruptcy case reported in the last year, a government industry taskforce identified a possible investor to take over the Malta operations of Fraser Eagle, although the offer to acquire the business was turned down.

### *Position of employees*

The law only provides for consultation in the case of collective redundancies and not in the event of bankruptcy. However, where a trade union is present, industrial practice dictates that consultation should take place during the whole procedure.

Workers are compensated for job losses only when this is specifically provided for in a collective agreement, usually in the form of redundancy pay. In the absence of a collective agreement, no compensation is provided, unless management decides otherwise; there is no provision in the law for redundancy pay. Since collective agreements in Malta are negotiated and signed at company level, the amount of compensation varies; however, usually no distinction is made in this regard between single and collective redundancies. Companies going bankrupt do not typically provide support for workers to help them to find new jobs.

### *Government and social partner support for workers*

A Guarantee Fund exists to ensure the payment of wages owed to workers whose employment is terminated due to company insolvency. Claims by employees for unpaid wages, holiday pay and further entitlements have priority over other claims.

In Malta, company pensions do not exist and employees do not lose any state pension rights.

In the event of bankruptcies, the social partners collaborate with the government to offer support to workers in the form of training, guidance and job search assistance. Trade unions also negotiate compensation for job losses with employers.

## **Netherlands**

### *Main reasons for bankruptcy*

Since the onset of the recession, there have been no major bankruptcies in the Netherlands involving more than 200 employees. However, a clear upsurge is apparent in the number of bankruptcies of smaller enterprises. The main cause has been the downturn in economic activity, whereas lack of competitiveness and excessive costs do not seem to have played a significant role. In some cases, excessive borrowing and banks cutting off credit have caused financial problems, but have not resulted in bankruptcies. Virtually all parts of the private sector seem to have been affected.

### *Regulations relating to bankruptcy*

Bankruptcy law consists of two parts: the suspension of payments when the business continues and bankruptcy itself when the company is liquidated. The main difference between the two is that the legislation governing the **transfer of an undertaking** does not apply in the event of bankruptcy. The main effect of the distinction is that, if insolvency law is used for restructuring, the suspension of payments approach must have been replaced by the bankruptcy option. Only then can the business be continued without being obstructed by legislation on the transfer of undertakings. No special measures to attempt to save companies that have become insolvent exist in the Netherlands.

### *Position of employees*

Legislation on restructuring does not apply in bankruptcy cases. In some instances, companies consult with their workforce or worker representatives but legislation on the provision of **information and consultation** is suspended when bankruptcy is filed. Nevertheless, after suspension of payments or bankruptcy, an administrator or receiver has to comply with the legislation. In cases of major restructuring involving suspension of payments or bankruptcy, trade unions or works councils may be involved. Social plans are the rule in the Netherlands in cases of restructuring; however, they are virtually non-existent in the event of bankruptcy. In the vast majority of bankruptcies, employees are left without redundancy payments.

### *Government and social partner support for workers*

Payment of wages is taken over by the government agency in charge of unemployment benefits. Workers who lose their jobs because of companies going bankrupt are not entitled to the same redundancy payments as other workers, and no arrangements are in place in this regard in the case of bankruptcies. Company pension funds, however, are kept separate from company accounts; thus, there is no threat to these funds in the event of bankruptcy.

## **Poland**

### *Main reasons for bankruptcy*

The main reason for bankruptcies in Poland was a fall in demand. New orders in industry declined by 20% between April 2008 and April 2009. Over 80% of companies are experiencing problems obtaining credit. Many bankruptcies were caused by earlier difficulties, such as the accumulation of liabilities, bad investment decisions and export losses incurred during the period of strong overvaluation of the Polish zloty. Some bankruptcy cases were caused by banks arranging currency options for companies to protect them against currency fluctuations, which, however, led to substantial costs. The industries that have experienced most bankruptcies are metals and metalworking, furniture and food.

### *Regulations relating to bankruptcy*

Bankruptcy may be initiated by companies or creditors. Bankruptcy proceedings can have two possible outcomes: liquidation or conclusion of an agreement to restructure debt. In the course of bankruptcy proceedings, the court takes action to secure the claims of creditors, which may ultimately mean liquidation.

Once the insolvency has been declared, an arrangement may be concluded with creditors if they agree to restructuring of the outstanding debt and only part of their claims being met in order to keep the company in business. The arrangement is binding only if approved by the court. Otherwise, the court appoints a judge-commissioner and a bankruptcy estate receiver, who has discretion to order liquidation proceedings. In the event of liquidation, the company may still remain in operation, providing that it is possible to find a purchaser.

### *Position of employees*

In the event of collective redundancies, companies are obliged to consult with the workforce. This is not the case in the event of bankruptcy. However, if the court rules that a bankruptcy arrangement should be concluded, the company and creditors may decide to initiate collective redundancies, and consultation then takes place. In this case, regulations on collective dismissals come into effect or an agreement over severance pay might be concluded with the trade union. However, in the event of liquidation, workers receive no severance pay from the company.

## *Government and social partner support for workers*

The Guaranteed Employee Benefits Fund ([Fundusz Gwarantowanych Świadczeń Pracowniczych, FGŚP](#)), to which employers are obliged to pay contributions, covers employees' claims to what is owed to them in the event of insolvency. This includes wages, holiday and sick pay, severance compensation and social contributions. However, workers affected by bankruptcy receive smaller severance payments – paid from the FGSP – than those subject to collective redundancies.

In the event of bankruptcy, company pension funds are either transferred to another pension scheme nominated by the employee or reimbursed to the employee. Companies going bankrupt cannot use pension funds to repay debts.

## **Portugal**

### *Main reasons for bankruptcy*

The main cause of bankruptcy among companies in Portugal over the year up to mid 2009 has been the economic downturn, which has caused a decline in orders. The result for many companies has been increased losses and debts. It is mostly companies which were already struggling that have gone bankrupt while previously well-performing companies with a viable long-term future have generally not been forced out of business.

### *Regulations relating to bankruptcy*

Proceedings take a unique form in the event of declaration of insolvency. Companies are deemed insolvent when their liabilities exceed their assets. Insolvency proceedings may be filed by the company, its creditors or by the public prosecutor. The petition initiated includes: details of the company's financial situation; the identification of directors, shareholders and creditors – together with their claims; a description of the company's activities over the previous three years; details of its establishments and assets; and a list of its employees. The directors of a company are obliged to file for insolvency within 60 days of becoming aware – or from when they should have become aware – of the company's insolvency. Failure to do so may result in penalties. Once the request for insolvency is presented, however, no measures are in force to try to keep the business in operation.

Both trade unions and the Authority for Working Conditions ([Autoridade para as Condições de Trabalho, ACT](#)) have identified cases where these procedures have not been fully respected and, in some instances, there have been accusations of fraud.

### *Position of employees*

The obligations on companies to consult with their workforce or worker representatives in the event of bankruptcy are similar to those applying in other restructuring cases. Companies filing, or planning to file, for bankruptcy do not typically consult with their workforce or worker representatives over procedures or the compensation for job losses. Moreover, they do not usually attempt to provide support for workers in the form of advice and guidance or practical assistance to find new jobs.

## *Government and social partner support for workers*

The Salary Guarantee Fund ([Fundo de Garantia Social](#)) protects employees in case of insolvency. The fund is run by the state and the social partners, and is financed by employers. The fund covers anything due to workers in the six months preceding the company filing for insolvency. This includes wages, as well as holiday and redundancy pay. The amounts paid are a maximum of four months' wages and cannot exceed three times the higher minimum wage. Workers who lose their jobs because of companies going bankrupt are entitled to the same redundancy payments as other workers.

## Romania

### *Main reasons for bankruptcy*

In Romania, there were 58% more company insolvencies in the first quarter of 2009 than in the same period of 2008. Up until October 2008, the increase in the number of bankruptcies was due to creditors wanting to be paid as soon as possible, insolvency proceedings being one of the fastest legal ways of accelerating payment. After that date, the global economic and financial crisis started to bite. There has also been a significant domino effect, with the downturn in the construction sector affecting the woodworking industry and forest management companies. Hotels and restaurants report a slowdown because of a severe decline in business tourism and due to significant cuts in the funds allocated to social events.

The economic sectors worst affected by bankruptcies have been wholesale and retail trade and construction, which, in total, accounted for more than 55% of all company failures. Although the global economic crisis can be labelled as a main cause of bankruptcies, there are secondary reasons which vary considerably across sectors. In wholesale and retail trade, a major factor has been increasing competitive pressure from rapidly expanding hypermarkets, forcing small traders out of business and reducing the profit margins of wholesalers. The construction sector has been hit by a plummeting property market, restricted access to bank loans, constraints on the state budget and the postponement of projects. In the transport sector, freight companies are losing business due to the contraction of their customers' sales.

### *Regulations relating to bankruptcy*

Insolvency procedures may be initiated by the company, its creditors or other individuals or companies legally allowed to do so, including the company's employees. To qualify for insolvency, a company must have failed to pay an outstanding debt of at least RON 10,000 (€2,335 as at 11 November 2009) within 30 days or failed to pay wages to employees for more than six months.

Under the insolvency law, two routes can be followed. The first is the general procedure, under which a company undergoes judicial reorganisation and/or is declared bankrupt. The second approach is the simplified procedure, under which a company becomes bankrupt immediately. Judicial reorganisation may enable jobs to be saved, because the company can continue in operation albeit on a smaller scale. However, in recent years, only 1% of the companies that filed for insolvency have managed to implement a reorganisation plan successfully and save jobs.

### *Position of employees*

The law does not distinguish between employers' obligations in the event of bankruptcy and in other cases of restructuring. Employers need to inform and consult with employees, according to both the law and collective agreements. They must keep workers informed about working conditions and anything that affects their jobs, as well as about the state of the business and its financial situation. Moreover, employers must seek trade union or worker representative opinions on the decisions likely to affect employees.

As a rule, companies filing for bankruptcy notify the trade union or worker representatives of any collective redundancy plans. During the period of notice, workers may receive counselling from local pre-redundancy services; however, in the event of bankruptcy, there is very little or no chance of financial or other types of support.

### *Government and social partner support for workers*

Under the insolvency law, employees' wage claims come second to those of creditors and after charges relating to the insolvency procedure. However, the wage guarantee fund covers the payment of claims deriving from individual employment contracts or collective agreements, such as unpaid wages and holiday and severance pay. It is funded by monthly employer contributions. Unlike other

types of restructuring – where severance pay, as stipulated in the collective agreements, may vary considerably from one industry to another – the amounts paid from the wage guarantee fund may not exceed three times the average gross national monthly wage.

In Romania, the law protects workers' rights to a state pension and to [social protection](#), irrespective of the type of restructuring that a company undergoes. An employer's failure to pay social security contributions and their diversion for other purposes is a criminal offence punishable by six months to two years in prison or a fine.

## **Slovakia**

### *Main reasons for bankruptcy*

The main reason for most bankruptcies in Slovakia is lack of orders. The first companies to experience the economic crisis were those specialising in exporting to countries already in recession – that is, enterprises in automotive, electrical, textiles and road-building machinery industries. Many companies restructured their business but others went bankrupt. This development was then followed by financial difficulties for companies supplying the domestic market, such as retailers.

The lack of orders was due to insufficient competitiveness as a result of competition from producers in countries with lower costs. This situation mainly concerned producers of low added value goods. In addition, banks attempted to reduce their involvement in companies when losses were declared in the first quarter of 2009. Furthermore, holding companies have tended to transfer investment to other countries with more profitable opportunities than in Slovakia.

### *Regulations relating to bankruptcy*

An enterprise is insolvent when it is unable to pay what it owes within 30 days. Management not taking the required action is liable to criminal prosecution.

Slovakian bankruptcy and restructuring law enables companies to initiate restructuring under the protection of the court, which safeguards them against creditors taking action and gives them the possibility of reaching agreement on a reduction and rescheduling of their liabilities.

The most promising measure for preventing bankruptcy is a scheme which temporarily provides state aid of up to €500,000 during the financial and economic crisis to companies that are restructuring; this provision will last until the end of 2010.

### *Position of employees*

The legal obligation on employers to negotiate the conditions of collective dismissals with employee representatives is applicable in cases of bankruptcy. However, under the law, the exclusive representatives of employees are trade unions, and membership of these is less than 30% of the labour force and, in the private sector, less than 10%. Despite this, in the majority of cases, management tends to inform employees of relevant facts concerning restructuring, including bankruptcy orders.

Companies do not usually provide special assistance or compensation plans to employees losing their jobs. Nonetheless, some exceptions arise. For example, when the [Zekon](#) textiles company closed its plant in the eastern town of Humenné, it offered the dismissed employees jobs in its factory in Michalovce, a town 30 kilometres south. Likewise, positions in the coal mining company [Hornonitrianske bane Prievidza](#) were offered to miners when the iron-ore mining company [Siderit](#) closed.

### *Government and social partner support for workers*

A Guarantee Fund covers wages and redundancy payments in cases of bankruptcy. The Social Insurance Agency ([Sociálna poisťovňa, SP](#)), a state body, then recoups these costs from the bankruptcy trustees. When employees are represented by trade unions, compensation is almost always

paid. If there are no employee representatives, entitlement to compensation is applied individually and delays may result.

Redundancy payments to employees in the event of bankruptcy can be smaller than in other cases of restructuring because a maximum limit is set on the amount that the Guarantee Fund can pay to each claimant.

Pensions in Slovakia are unaffected by bankruptcies as company pension funds are illegal.

In the past, procedures applied in cases of bankruptcy used to be agreed in collective agreements and similar provisions have started to reappear. For example, the collective agreement concluded in Slovglass stipulates a period of notice of two to three months and that all employees dismissed should receive standard redundancy payments.

## **Slovenia**

### *Main reasons for bankruptcy*

From the beginning of 2008 up until mid 2009, the ERM reported 15 bankruptcies and closure cases in Slovenia. While economic recession was not the main cause of these, in a number of cases it hastened the demise of companies already experiencing financial difficulties. High export and gross domestic product (GDP) growth rates in Slovenia before the recession were based on high growth in global demand. When this came to an end, a significant part of production – especially of exports – became of questionable viability. Exports and competitiveness have perhaps been based too much on low cost labour, while costs in fact are much lower in other parts of eastern Europe and Asia. Some 11 of the 15 bankruptcy cases can be attributed to this problem. In addition, holding companies and equity funds are relatively important as owners of companies. In four of the 15 bankruptcy cases, holding companies divested themselves of the business.

Industries such as textiles, clothing, leather and wood products are predominant among bankruptcy cases. The main reasons for bankruptcy in these sectors are high labour costs, increased energy prices and competition from eastern Europe and Asia. Other cases, such as those in food production, manufacture of construction machinery and the chemicals industry, are exceptions rather than the rule; in these sectors, bad investment decisions and reduced construction activity are major reasons for bankruptcy.

### *Regulations relating to bankruptcy*

There are two different types of insolvency proceedings: bankruptcy and compulsory settlement. They are both based on the same principles: **equal treatment** of all creditors, securing better conditions for repayment of their claims, expedited procedures, disclosure of the company's financial position and limitation of risk.

The company concerned, creditors and the **Public Guarantee and Maintenance Fund** can file for bankruptcy. Companies may ask the court to postpone a decision and may propose financial restructuring. The company has to justify this option within two months by submitting a proposal for compulsory settlement or by providing evidence that it has successfully increased its capital and become solvent. Compulsory settlement is not mandatory but, when proposed, it can enable a restructuring of the company and improve the chances of creditors being paid.

### *Position of employees*

If the number of employees dismissed in cases of bankruptcy meets the threshold for collective redundancies, the employer has to comply with the provisions on collective redundancy, including those on workforce consultation. Consultation is aimed at agreeing measures to mitigate the harmful consequences of dismissals. In practice, companies filing, or planning to file, for bankruptcy typically consult with worker representatives. Employers often try to find alternative employment for workers in cooperation with other employers.

Social plans to compensate workers in the case of bankruptcies are typically drawn up, but financial support above that provided by law is infrequent. In most instances, employees tend to receive smaller amounts of financial compensation than in other cases of restructuring.

### *Government and social partner support for workers*

The Guarantee and Maintenance Payments Fund Act ensures the payment of wages and redundancy compensation to employees whose jobs have been terminated in insolvent companies. However, these payments are restricted to maximum amounts relating to the minimum wage. The system, managed by the Public Guarantee and Maintenance Fund, is financed by contributions from the employees, the state and the fund itself.

Company pension funds must be kept separate from other monies. Since 2000, no large company has created an independent closed pension fund. There have been no cases of workers losing their pension entitlement as a result of company bankruptcy over the past year.

In the event of collective dismissals, including bankruptcies, a coalition of the main actors is formed to participate in all phases of the restructuring process and to assist in reducing the negative consequences and in creating new employment. These actors include employers, the Employment Service of Slovenia ([Zavod Republike Slovenije za zaposlovanje, ESS](#)), trade unions, local authorities, development agencies and central government departments. Worker representatives and trade unions negotiate the best possible package for redundant workers. This usually focuses on the amount of redundancy payments. Employment offices play an active role in providing non-financial support to workers losing their jobs in bankruptcy cases.

## **Spain**

### *Main reasons for bankruptcy*

Over the past year, there has been a large increase in the number of bankruptcies in Spain. The number of companies beginning insolvency proceedings rose by 167% between the first quarter of 2008 and that of 2009. Of the companies beginning insolvency proceedings during 2008, 25% were in the construction sector and 19% were in real estate and business activities. The collapse of the property bubble is one of the aspects differentiating the economic crisis in Spain from that in other countries. Companies have suffered liquidity problems due to restrictions placed on credit by the banks and a decline in domestic demand. For example, the construction company [Inmobiliaria Pedralbes](#) collapsed because it could not service its debt and was unable to obtain credit due to decreasing sales.

### *Regulations relating to bankruptcy*

A bankruptcy application may be presented by the company, its creditors or others with a legal right to do so. Companies lacking liquidity must voluntarily begin insolvency proceedings before all of their assets are exhausted and within two months of discovering their state of insolvency. If the bankruptcy application is made by the company itself, the managers retain their position but are subject to supervision by the insolvency administration, comprising a lawyer, an auditor and a creditor. If the proceedings are initiated by creditors, management passes to the insolvency administration.

Alternatively, companies can take restructuring measures and try to reach agreements with creditors before their situation becomes too serious. When this is not possible, liquidation takes place to prevent companies from leaving outstanding debts to workers and creditors unpaid.

### *Position of employees*

In general, companies facing bankruptcy and beginning insolvency proceedings have similar obligations to consult with worker representatives as in other cases of restructuring involving collective redundancies. However, provision of support to workers is less common in the case of bankruptcy than in other restructuring situations.

The judge overseeing insolvency proceedings can be requested to modify working conditions and cancel or suspend employment contracts only when the insolvency administration's report has been issued. In practice, it is common for companies to have to wait for several months from the presentation of the insolvency application until substantial action of this kind can begin. However, in exceptional cases, when delay could compromise the future viability of the company or seriously damage the interests of workers, these measures can be requested to start earlier.

### *Government and social partner support for workers*

The Guaranteed Wages Fund ([Fondo de Garantía Salarial](#), FOGASA), an independent body attached to the Ministry of Labour and Immigration ([Ministerio de Trabajo e Inmigración](#), MTIN), guarantees that workers will receive their wages together with any compensation for dismissal in the event of their employer's insolvency. Compensation for redundancy due to bankruptcies is covered by the same law as other cases of restructuring and the amount of compensation is also the same.

## **Sweden**

### *Main reasons for bankruptcy*

In Sweden, bankruptcies have increased by 45% in the first quarter of 2009 compared with the same period last year. Swedish companies have suffered problems of liquidity while the banks have been more reluctant to lend companies money. Bankruptcies have been most widespread in small, young, companies operating in the wholesale and retail trade sector, the construction sector and in services of various kinds.

The automotive industry has been most affected by the economic recession. A large number of subcontractors have filed for bankruptcy as a direct consequence of the recent decline in demand for cars and lack of competitiveness at international level. For example, [Segerström Automotive](#), a metal components supplier mainly for vehicles, filed for bankruptcy in December 2008, dismissing 220 employees.

### *Regulations relating to bankruptcy*

A company or its creditors can file for bankruptcy. The company is then taken over temporarily by an official receiver (*Konkursförvaltare*), who distributes the remaining funds among those with claims on the company. The receiver can also decide to continue the profitable operations of the company in order to obtain funding to repay the creditors. At the time of the bankruptcy, all employees are dismissed. In many cases, the former owners of the company buy back the enterprise after bankruptcy. In such cases, the former employees are the first to be rehired.

An alternative solution is 'company reorganisation' (*företagsrekonstruktion*), which must include a settlement with the creditors to reduce debts but also has to involve measures to improve the company's profitability. A reorganisation is only approved if the company can achieve long-term profitability. The court decides on the reorganisation and appoints an administrator to investigate the feasibility of implementing it. If a financial arrangement cannot be reached with creditors on a voluntary basis, the court can impose public composition proceedings (*offentligt ackord*) to reduce debts compulsorily. Some 100–200 reorganisations take place in Sweden every year. However, the majority (60%–70%) still end up in bankruptcy.

To help companies during the economic downturn, rescue loans amounting to €918 million have been made available for failing Swedish automobile companies. However, so far, the government has not approved any of these. On the other hand, a measure aiming to help SMEs to avoid bankruptcy – through loans provided by ALMI Företagspartner AB, a state-owned business partner enterprise – has assisted about 300 subcontractors in the car industry.

## *Position of employees*

Employers are obliged to inform trade unions of important developments, such as reorganisation, bankruptcy or other forms of restructuring. Meetings have to take place at least twice a year or whenever necessary. This gives trade unions influence over the [working environment](#) and the company agenda. Since there is always a dialogue between the social partners, bankruptcy rarely comes as a surprise for the trade unions involved. In addition, employees are assured information about and influence over the company's activities through representation on the board of directors in private companies with more than 25 employees.

## *Government and social partner support for workers*

The wage claims of employees are given priority over all other forms of credit except mortgages. Employees have 'salary guarantees' (*statlig lönegaranti*) – that is, compensation paid by the state if a bankrupt company does not have sufficient assets to meet their claims. The guarantee applies to claims of up to about €16,000 which are no older than three months, as well as to wages during an employee's period of notice. After a reorganisation, the company has to repay the salary guarantees to the state.

A central feature of the Swedish model is that the social partners themselves regulate the labour market through collective agreements. These agreements seldom include provisions on bankruptcies. However, most include support for workers who are unemployed, as in the case of bankruptcies, in the form of advice, guidance and practical assistance to find a new job, provided through employee security agreements (*trygghetsavtal*). In some cases, financial support which is complementary to unemployment benefits is also included. In certain agreements, however, the compensation due has been lowered because of the economic downturn.

## **UK**

### *Main reasons for bankruptcy*

The causes of bankruptcies in the UK over the year up to mid 2009 have tended to be sector specific. In the wholesale and retail trade sector, several large cases of bankruptcy have been attributed to a sharp decline in consumer spending. These include the general goods retailer [Woolworths](#), the footwear retailer [Stylo](#) and the furniture and other household goods retailer [MFI](#). In the manufacturing sector, a series of bankruptcies are attributable to the downturn caused by the global economic crisis. The bankruptcies of the iron and steel manufacturer [Corus](#), the high technology engineering company [Freescale Semiconductor](#) and the dairy producer [Dairy Farmers of Britain](#) can all be attributed to a lack of demand. In the financial intermediation sector, many companies have become bankrupt as a result of their exposure to 'toxic' financial assets or excessive borrowing. For example, the exposure of the bank [Northern Rock](#) to the US sub-prime housing market led to its bankruptcy and subsequent nationalisation.

In some cases, however, the economic crisis was not the main reason for bankruptcies; rather, it aggravated existing problems, hastening the demise of the companies concerned. In wholesale and retail trade, for example, [Woolworths](#) had experienced financial difficulties for several years prior to its bankruptcy in 2008. On the other hand, in financial services, the situation was different, since the majority of companies appear to have been healthy prior to the economic crisis.

### *Regulations relating to bankruptcy*

In England and Wales (slightly different arrangements apply in Scotland and Northern Ireland), companies or their creditors must present petitions to a court in order to be declared bankrupt. Companies may make a voluntary arrangement with their creditors to try to avoid bankruptcy or may be placed into administration, in which case the company continues as a going concern but is run by an administrator. These are both alternatives to the outright liquidation of the company and often lead to jobs being saved.

In response to the economic crisis, the UK government has also intervened in several cases to support large companies which had become bankrupt or were threatened with bankruptcy. This is particularly the case in the financial intermediation sector, on the grounds that the failure of such companies would have had a negative effect on the UK economy. In the case of [Northern Rock](#), nationalisation led to 1,200 fewer job losses.

### *Position of employees*

In the UK, no legal distinction is made between collective redundancies that occur as a result of bankruptcies and other forms of restructuring. A company implementing redundancies as a result of bankruptcy is required to conduct ‘meaningful’ consultation with its workforce or worker representatives prior to doing so. This consultation process must include discussion over the reasons for the redundancies, how the individuals concerned have been selected, possible ways of avoiding redundancy and possible alternative jobs for those affected. In addition, companies typically provide advice and guidance to workers to help them to find new jobs as part of the consultation process.

Workers who lose their job as a result of bankruptcies are legally entitled to the same financial compensation as those who lose their jobs in other companies, and there are examples of workers receiving substantial amounts of redundancy pay. For example, in the case of the bankruptcy of [Visteon UK](#), a manufacturer of automobile components, workers received redundancy payments of up to 10 times the statutory limit.

### *Government and social partner support for workers*

In the UK, the Insolvency Service provides compensation to workers who have lost their jobs as a result of bankruptcy and have not received the wages owed to them. Those eligible may claim wages, holiday and notice pay that is owed to them up to a maximum amount.

By law, companies in financial difficulties are prevented from using a company pension fund as a means of covering their debts or as a source of borrowing. If companies have not made the scheduled contributions into workers’ pension schemes, these can be paid by the Insolvency Service.

Few social partner collective agreements include reference to bankruptcy. However, as mentioned above, a notable exception is the closure of three UK plants by Visteon, where the collective agreement resulted in workers receiving a higher level of redundancy pay. Nevertheless, many trade unions provide information to their members about their legal rights.

No statutory public or social partner agencies exist for the purpose of preserving jobs when companies file for bankruptcy. However, there are several schemes to preserve employment in such cases. At regional and national level, UK public authorities and social partners have combined to develop strategies for economic renewal in regions that have been substantially affected by large-scale bankruptcies. In addition to the permanent [Regional Development Agencies](#) (RDAs), several regional taskforces have been established in recent years that assist workers affected by bankruptcy. For example, a taskforce was set up in the wake of the bankruptcy of Northern Rock in 2008 to help workers in North East England.

## **Norway**

### *Main reasons for bankruptcy*

In the first few months of 2009, the ERM reported four bankruptcies in Norway. These were the tyre rims manufacturer [Fundo Wheels](#) and the aluminium chassis manufacturer [Casting Technologies Farsund](#) (CTF), as well as the [Karmsund Maritime](#) shipyard and the information storage solutions provider [Tandberg Data](#). In three of the four cases, the downturn in the economy is one of the main reasons for bankruptcy. Two of the companies were producers of car parts: [Fundo Wheels](#) – which had been in business for more than 30 years – and CTF, and their demise was due to a lack of demand by car producers. The bankruptcy of Karmsund Maritime resulted from the cancellation of a large

contract. On the other hand, the main reason for the bankruptcy of Tandberg Data and its subsidiary [Tandberg Storage ASA](#) was large debts. The company failed in efforts to agree a debt settlement with its largest creditor, [Cyrus Capital Partners](#), and attempted unsuccessfully to issue shares to raise more capital.

### *Regulations relating to bankruptcy*

Bankruptcy proceedings may be initiated by the company or its creditors. If the bankruptcy court finds that the conditions of bankruptcy are fulfilled, a decree is passed to institute bankruptcy proceedings. The company loses its right over its assets and must assist in finding a resolution during the bankruptcy proceedings. It has a duty to provide information on its financial situation and assets, which are sold to obtain the largest amount. In some cases, the business may be kept running, for example, if it is profitable to finish a project.

Bankruptcy can be avoided for a period of time by debt reorganisation if this can be agreed with all of the creditors. Such agreements usually include deferred payment of the debt as well as partial debt relief. If the bankruptcy court finds that the conditions for debt settlement are fulfilled, a decree is then passed – even against the wishes of some of the creditors.

### *Position of employees*

The management of a company is supposed to discuss all matters relating to the financial position of the enterprise, its production and development with worker representatives. It is therefore reasonable to assume that companies will be in close dialogue with worker representatives when the company is struggling financially, with the aim of avoiding bankruptcy. In addition, workers in companies with more than 30 employees are entitled to representation on the board of directors. In general, most large companies will probably consult their worker representatives over procedures – and, in some cases, compensation – for job losses in cases of downsizing. However, in the event of bankruptcy, compensation is not usual, and there is no indication that companies attempt to provide support and assistance for workers.

### *Government and social partner support for workers*

As part of social policy, the state guarantees that justified claims for payment from workers will be met in cases of bankruptcies. The Wage Guarantee Scheme, administered by the Labour Inspection Authority ([Arbeidstilsynet](#)), covers all such claims. Employees, unless they have already found a new job, have to register as jobseekers within 14 days of the commencement of bankruptcy proceedings. If they do not, they will not qualify for pay from the state. Workers losing their jobs due to bankruptcy are entitled to the same amounts of financial compensation as in other cases of collective redundancy.

Workers do not risk losing their pension entitlements as a result of a company bankruptcy. Norwegian pension funds are required to report all pension obligations in full every time they publish their balance sheets. They therefore have to demonstrate at each quarterly period that they are able to meet future pension obligations to workers. The pension funds are organised as independent entities and the funds accumulated cannot be used by the company for other purposes. If there are insufficient funds to cover pension liabilities, companies are obliged to augment them.

Duncan Coughtrie, John Morley and Terry Ward, Applica

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