

Project Fiche – IPA National programmes / Component I

1 IDENTIFICATION

Project Title	Implementation of the legal framework for bankruptcy and voluntary liquidation of companies
CRIS Decision number	2011/022-988
Project no.	5
MIPD Sector Code	3. Private Sector Development
ELARG Statistical code	02.20
DAC Sector code	24010
Total cost (VAT excluded)¹	1.410.000 EUR
EU contribution	1.269.000 EUR
Management mode	Decentralised
Responsible Unit or National Authority/Implementing Agency	<p>The Central Financing and Contracting Department (CFCD) will be the contracting authority and will be responsible for all administrative and procedural aspects of the tendering process, contracting matters and financial management including payment of project activities. The Head of CFCD will act as the Programme Authorising Officer (PAO) of the project.</p> <p>Mrs. Radica Koceva (PAO) Central Financing and Contracting Department Ministry of Finance Tel: +389 2 3106 455 Fax: +389 2 3231 219 E-mail: radica.koceva@finance.gov.mk</p>
Implementation management	<p>The Ministry of Economy.</p> <p><u>Contact:</u> Ministry of Economy Mr.Aleksandar Popovski, Head of Department for European Integration and Senior Programme Officer Tel: + 389 2 3093 491 E-mail: aleksandar.popovski@economy.gov.mk</p>
Implementing modality	Stand alone project

¹ The total project cost should be net of VAT and/or of other taxes. Should this not be the case, clearly indicate the amount of VAT and the reasons why it is considered eligible.

Project implementation type	Grant
Zone benefiting from the action(s)	Skopje with nation wide activities

2. Overall Objective and Project Purpose

2.1 Overall Objective:

To improve the general business environment in the country, by faster winding up of companies through bankruptcy proceedings and voluntary liquidation.

2.2 Project purpose:

The project purpose is to strengthen the institutional capacity for the implementation of the laws on bankruptcy and voluntary liquidation in order to identify and overcome the administrative bottlenecks and weaknesses arising from the implementation. In this respect, the project shall strengthen the capacity of the Ministry of economy (MoE) and the Central Register (CR) to perform competences in the area of bankruptcy and liquidation of companies; improve the capacity of liquidators, bankruptcy judges and the bankruptcy trustees in conducting/administering liquidation and bankruptcy procedures and inform the creditors and debtors as to the timely and effective exercise of their rights and obligations deriving from the bankruptcy procedures, as well as to the benefits of an early initiation of bankruptcy or voluntary liquidation.

2.3 Link with AP/NPAA/ EP/ SAA

The project directly links to the economic criteria part of the NPAA which relate to the business environment (market exit).

The Ministry of Economy will significantly strengthen institutional capacity in conducting bankruptcy procedures and carrying out voluntary liquidation through trainings, improvement of the programmes for bankruptcy trustees' exam and staffing the Chamber of Bankruptcy Trustees. Furthermore, all relevant stakeholders will be involved in trainings and technical assistance for trainers of bankruptcy law and bankruptcy procedures will be provided.

2.4 Link with MIPD

The MIPD 2011-2013 stipulates that despite improvements, the general economic and business environment in the country remains a challenge in the forthcoming period. Further assistance is needed for the development of SMEs, especially through strengthening the institutional and legal framework for SMEs related public policies and the development of public services to businesses (e.g. investment and export promotion agencies, one stop shops for business registration).

2.5 Link with National Development Plan

N/A

2.6 Link with national/ sectoral investment plans

The project directly links to the following key Strategies and Action Plans in the sector:

- Annual program for bankruptcy policy, Ministry of Economy;
- Strategic plan of the Ministry of economy 2010 – 2012.

3. Description of project

3.1 Background and justification

Bankruptcy, as a legally declared inability or impaired ability of an individual or organisation to pay its creditors, has a negative impact on the national economy ever since the independence of the country in 1991. In theory, the insolvency numbers for bankruptcies do not adequately indicate the accurate situation with regards to the market exit. Only a small number of creditors will ever decide to file for insolvency, even though the great majority of creditors claims is located in different state bodies and agencies.

Institutional strengthening and administrative capacity building for the Ministry of economy, judiciary involved in bankruptcies, the bankruptcy trustees, as well as liquidators and supporting the awareness rising for creditors will stimulate the pro-active role of all these stakeholders in bankruptcy and liquidation, thereby contributing towards the main goal of the project.

Though each of the stakeholders noted afore have different responsibilities, they have essentially interrelated and interdependent roles in bankruptcies, and are indispensable actors in each phase of the procedure.

The need for strong capacity building measures for the four pillars (government, judiciary, creditors and debtors) in the implementation of bankruptcy and liquidation derives from the fundamental objective of creating a sound ability for true-life implementation of the applicable legal framework that is grounded on complex inter-dependency of the provisions in Law of Bankruptcy, Company Law and the provisions in the national legal framework with regards to obligations, payment system and operations, banking, public revenues and tax, securities and judicial protection of creditor's claims.

The greatest shortcoming of the national "market exit" component is the imbalance between the pillars fundamental to every bankruptcy. The balanced approach can only be successful if there is an enhanced capacity building and active contribution by all stakeholders involved in the bankruptcy processes.

Government

The legal framework with regards to market exit consists of the Bankruptcy law and the several provisions of the Company law on voluntary liquidation. The legal framework is implemented through the bankruptcy judiciary inclusive of companies' managers (who are liquidators under the Company law in such cases), licensed bankruptcy trustees, the debtors themselves, and overseen by the Chamber of Bankruptcy Trustees and the Bankruptcy Committee. The recent reductions of the backlog of bankruptcy cases shows that the undertaken reforms have generated results and the duration of the bankruptcy procedures has been reduced thus providing fast and easy market exit. However, as the World Bank Doing Business 2010 report recognises, no business regulations have been more tested by the global financial and economic crisis than those relating to insolvency. Considering the still low rank of the country in conducting efficient and transparent bankruptcy proceedings with high recovery rate for creditors, and in the event of global economic crises there is a strong need for support of the country's policy and framework for exiting off the market by insolvent companies.

The national policy on bankruptcy is reformed and the existing law on bankruptcy is in accordance with the best European Union member's legal practices. However, the self-declaration of insolvency by debtors and the motivation for initiation of bankruptcy at the viable businesses is considered as a disadvantage, seriously hindering any implementation process regardless of the quality of the law. Governments are facing serious problems recognizing wrongful and risk decisions made on both creditor and debtor side when it comes to timely initiating of bankruptcy, as well as to exercise of rights of both during the process.

The Ministry of economy, as the responsible ministry for the bankruptcy policy, vests considerable efforts and resources to strengthen the capacity of the role of the Bankruptcy trustee, thus directly enhancing one of the most fundamental pillars in bankruptcy process. Through the establishment of Chamber of Bankruptcy trustees, through the first ever specialized workshops and seminars organized on the subject of bankruptcy in 2009 and 2010 and through the establishment of high quality primary

and secondary legislation, the policy in the field has been completely reformed in the right direction, resulting in certain positive outcomes such as lowering of bankruptcy proceedings duration and less malpractices and abuse of rights by bankruptcy trustees in the process; stronger mechanism for disciplinary sanctions, etc. Though these results serve as first signals that bankruptcy policy is going in the right direction, they cannot be deemed as sufficient. To further support this, more systematic and large scale effort in strengthening the Ministry of economy staff responsible to track, monitor and analyze the implementation of the law on bankruptcy is needed.

Judiciary

Once a case is brought before the court, a timely resolution becomes essential, especially if the aim is to save the company. Proceedings that end with an efficient outcome—the firm continuing to operate or being sold as a going concern—go through the insolvency process in less than 2 years is a serious challenge for courts at this point. Judges are not highly specialized in conducting bankruptcy procedures, they still absorb the reformed legislation, and still do not fully grasp the idea that every decision made in the process reflects not just the recovery of creditors through liquidation of assets, but it is crucial for the status of the debtor and possibility to reorganize the business. There are dozens of collateral issues deriving from any procedure such as: disputes on the creditor's claims that have to be solved very quickly in regular litigation, the invocation of secured claims that are not subject of recovery through bankruptcies (pledge or mortgage rights), the incurrance of criminal charges as a result of illegal actions by the former management boards, malpractice in doing business during the insolvency period (practice of founding daughter-companies to which businesses are transferred), plus constant need to monitor the Bankruptcy trustee's work who is in charge for the bankrupt company during the procedure and has many management prerogatives during that time. Judiciary needs knowledge and best practice in terms of understanding many complex situations and matrix of behaviour by all participants in the procedure to react effectively and in the best interest of all.

The country is still internationally measured (World Bank Doing Business 2010 Report) as having over 2 years of duration of bankruptcies (more precisely the indicator of closing business identifies 2, 9 compared to average of 1, 7 as in OECD countries) and ranked low (115th in the world) with country's 20, 9 versus OECD average of 68, 6 in recovery rate sub-indicator. Thus the lack of capacity in the implementation of the bankruptcy law remains an essential factor for improving the business environment especially since the low implementation of the bankruptcy policy and legal framework is contrast with the country's superior rank among top 5 in the world with its 4 hours business registration. The disparity between business entry and business exit should be addressed by supporting the implementation capacity on the "exit" side.

It is evident that all statistics are pointing out towards measurements of the bankruptcy procedures from the opening until closure of the procedure and without any doubt the main role of conducting this process according to law is held by the Bankruptcy Judges.

Creditors

Unfortunately, the weak ability to enable quick exit of the market for insolvent and bankrupt companies not only deteriorates the business environment and suppresses the country's attractiveness for foreign investment, but on a long run it affects the constitutional protection of freedom and safety of a market economy ready to anticipate a viable business and impairs the competitiveness and freedom of doing business. The gravest implication is the potential loss of trust in the market forces, as the continuance of the existence of bankrupt companies is detrimental to lawful economic activities causing grey economy, unfair and illegal practices of payments, harms the viable businesses and raises the rate of insolvency in the country. However the creditors are still either completely unaware of the fact that delay in initiation of bankruptcy procedure harms the recovery at later stage or even makes it impossible, but usually assess the risk of doing no action as best solution, i.e. waiting for debtor to become solvent or pay on any other way is better for their interest.

The need to inform and raise the awareness of creditor's role, creditor's rights and possibilities in regard to restructuring the businesses is high and should be supported by effective and supportive

assistance that will cause increase of the number of bankruptcy procedures filed by creditors, strengthen creditor's awareness on the legal position and responsibility and alternatives for making the most appropriate decision for their interest in the bankruptcy that will to the ultimate objective: higher recovery rate, or business restructured and went on.

Debtors

Even the presumption that bankruptcy trustees are licensed and professional to the maximum extent, and bankruptcy judges are proactive in timely initiation of all phases of the bankruptcy procedure in an efficient and effective manner, the lack of interest, lack of knowledge, even a fear of filing a bankruptcy on the side of debtors causes negative start up point for the bankruptcy outcome.

3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact

The project should contribute to creating a knowledge base through transfer of best practices and policies in conducting efficient bankruptcy proceedings on the side of both bankruptcy organs, debtors and creditors, in terms of use of the bankruptcy proceedings in an efficient way to accomplish the goals of collective settlement of creditor's claims and fast liquidation of debtor's assets or restructuring the respective business. The project should contribute to sufficient understanding and awareness of the need for timely initiation for private creditors, with the aim of accomplishing a bankruptcy procedure of less than 18 months and a higher level of creditor's recovery rate (at least over 50% of the creditor's claims).

The project shall contribute towards the strengthening of the country's ability to serve as business destination and market where the bankrupt and insolvent companies are quickly exiting the market, thus preventing any negative impact on the overall business and competition.

The project, through exercise of various activities in terms of expertise analyses and specialised trainings, should contribute to strengthening of the capacity of the judiciary involved in bankruptcy that shall gather experience and valuable inputs for the best practices to rule according to bankruptcy law provisions in an effective way, thereby extending the project's sustainability beyond the project's end.

The project shall impact the overall stagnation of the private sector creditors who refuse or reject the idea to initiate bankruptcy on debtor's assets, distrusting the ability and quality of the bankruptcy procedure to recover their claims vis-à-vis the status quo of possible improvement of the debtor's insolvency which is an extremely rare case.

In terms of the project's long term goals, it will contribute towards creating an ambient for quick market exit decisions on both debtor and creditor side, levelling the number of insolvent bank accounts and insolvent companies existing in the business.

The project should achieve a greater understanding in the private sector of the role and positive effects of initiating early bankruptcy, as well as of the possibilities on the side of creditors as to the use of the debtor's assets in such a way so to achieve higher recovery rate or restructure the bankrupt businesses.

3.3 Results and measurable indicators

Expected results:

- Timely initiation of bankruptcies in accordance with the conditions stipulated by law;
- Pro-active consideration of Plans for restructuring of bankrupt businesses in a bankruptcy procedure;
- Updated National Program for education of candidates for bankruptcy trustee;
- Updated study materials for bankruptcy trustees and exam papers;
- Private sector stakeholders (representatives from employees and companies professional organisations and societies such as chambers, syndicates etc) informed about the benefits and prospects of early initiation of bankruptcy proceeding, via country wide awareness raising campaign;
- Annual average recovery rate for creditors is over 25%;

- Annual increase of the bankruptcy proceedings initiated by private creditors;
- Annual increase of voluntary liquidation proceedings;
- Annual increase of restructuring plans in bankruptcy proceedings;
- Annual increase of the finished bankruptcy proceedings;
- Annual increase of voluntary liquidations;
- Annual increase of licensed bankruptcy trustees;
- Annual decrease in duration of bankruptcy proceedings for small or medium sized enterprises;
- Judiciary and bankruptcy trustees trained in evaluation and decision making and in particular in the process of reorganisation/restructuring plans in bankruptcy;
- Judiciary and Bankruptcy trustees exercise their functions in connection with evaluation of business restructuring plans.

Measurable indicators:

- Number of bankruptcy proceedings initiated;
- Number of bankruptcy proceedings finished;
- Number of bankruptcy proceedings within 90 days from the date of permanent bank account insolvency status initiated;
- Number of filed bankruptcies by debtors, public and private sector creditors as stipulated by law;
- Number of restructuring plans during bankruptcy proceedings drafted;
- Number of companies which completed bankruptcy proceedings through restructuring business plans or as new entities;
- Number of initiated voluntary liquidations;
- Number of finished liquidation bankruptcies;
- National Program for education of candidates for bankruptcy trustee updated;
- Study materials for bankruptcy trustees and exam papers updated;
- Number of organised Round table discussions among creditors-judiciary/bankruptcy trustees-public sector creditors;
- Number of specialised trainings organised for particular areas in bankruptcy (on time filing, drafting restructuring plans, pro-active involvement);
- Study visit organised and carried out;
- Assessment report of EU best practices in the field conducted;
- Awareness-raising materials prepared, printed and published;
- Number of campaigns broadcasted;
- Annual average recovery rate for creditors increased.

3.4 Activities:

- Review of the programs, trainings, exams and licensing procedure for bankruptcy trustees;
- Preparing of training materials and expert papers on exercise of private sector creditors (banks, corporations, limited liability);
- Training of bankruptcy trustees and liquidators in taking over the assets of the debtor's estate (reductions to cash, distributions to creditors, subject to the debtor's right to retain certain exempt property and the rights of secured creditors);
- Assessment of the best EU practice in this field;
- Organisation of a study visit in a country with a similar legal and institutional framework;
- Training of Ministry of economy staff in efficient creation, adoption, implementation, tracking and monitoring process in relation closing of businesses;
- Training of bankruptcy judges in evaluation of the debtor's assets in bankruptcy;
- Know-how transfer to judiciary in better organisation of the bankruptcy cases overloads;
- Training of bankruptcy judges in dealing with creditor's rights deriving from other private commercial obligations contracts and businesses with debtor, whether they are secured or not (pledge, mortgage);
- Informing various classes of private creditors (private entities, employees, state, banks) on their rights deriving from holding an unsecured claim that will get a distribution from the

bankruptcy estate only if the case is an asset case and the creditor files a proof of claim with the bankruptcy court and not in so called “no-asset cases”;

- Knowledge transfer of best European Union practices in assessing the possibility for preparation and adoption of reorganisation plan for the debtor during bankruptcy;
- Promotion of the bankruptcy trustee profession as solid, valuable and attractive for future candidates.

3.5 Conditionality and sequencing:

- Endorsement by all key stakeholders of the Terms of Reference, specifications for the individual contracts to be engaged;
- Appointment of counterpart personnel by the beneficiaries before the launch of the tender process;
- Allocation of working space and facilities by the beneficiaries for technical assistance before the launch of the tender process;
- Participation by the beneficiaries in the tender process as per EU regulations;
- Organisation, selection and appointment of members of working groups, steering and coordination committees, seminars by the beneficiaries as per project work plan;
- Appointing the relevant staff by the beneficiaries to participate in training activities as per work plan.

Management and contracting arrangements

The co-ordination of the activities foreseen to be carried out is of key importance. Therefore, the management structure will be established so as to oversee the overall implementation of the project and to ensure appropriate coordination between the different activities supported by the project.

For guaranteeing overall project results, as outlined in the fiche and for beneficiary coordination and management, a high-ranking employee of the Ministry of Economy shall be nominated. This person shall closely coordinate the project activities on the side of the beneficiaries with appointed staff from the bankruptcy unit within Legal Department. The staff shall be responsible for linking the other beneficiary institutions such as the Chamber of Bankruptcy trustees, Economic Chambers, as professional organisations representing the business sector, Academy of prosecutors and judges, and also the professional organisations representing commercial banks as specific creditors which are concerned in almost any bankruptcy proceeding. Also the Ministry of economy staff shall be responsible for providing effective link with beneficiaries on the side of the public sector, which are identified as most prominent creditors in bankruptcies, in particular the public revenue office and social insurance funds and will be nominated to ensure that beneficiary tasks and responsibilities are followed in parallel with the outputs of the consultants.

The private sector shall be involved on an informative basis as a relevant stakeholder and the involvement shall be carried out through the respective chambers under the coordination of Ministry of economy. The Chamber of Bankruptcy trustees shall be the contact point through which the project shall carry out the services under coordination of the Ministry of economy. The Ministry of Justice and the Academy of prosecutors and judges shall be involved as institutions on a coordinative basis and serve as a connection with judiciary, and their input with regards to project activities shall be expressed to the Ministry of economy. The Academy shall serve as key contact point for coordination of the Project with the judicial sector in particular in planning the project activities related to providing services to judiciary in the area of bankruptcy.

The contractor/provider of the TA will appoint a Team leader and key experts. The Team leader shall have the responsibility to ensure that the contractor (key experts) will properly deliver the specified results.

The key experts shall be responsible for the overall management, representation (co-ordination with the EU and other international bodies) as well as reporting on the activities of the project. The team leaders are responsible for an appropriate management of resources. During the inception phase of the

project, a detailed deployment plan will be developed under the coordination of the Steering Committee.

A Steering Committee, consisting of the Team leader, the representatives from the Ministry of Economy Department for EU integration, Legal department – Unit for bankruptcy, Academy of prosecutors and judges, Chamber of Bankruptcy trustees, relevant registered economic chambers, EU Delegation, SEA, CFCD and the SPO staff, will be established, chaired by the Head of the European Integration Department. The Steering committee shall meet on a quarterly basis to discuss progress of the project activities and outline planning and progress. The agenda and the minutes of the meetings will be produced by the Team leader.

The expected contracting arrangement

- 1 service contract will be concluded. The duration of the contract is expected to be up to 24 months. The contract value will be approximately 1.550.000 EUR, out of which IPA contribution will amount 1.395.000 EUR, while national contribution will amount 155.000 EUR. Contract signature is foreseen for Q2 2013.

3.6 Linked activities

USAID and World Bank (BERIS and LJIS Projects) support various aspects of the Bankruptcy policy and laws implementation.

The three year **USAID Macedonian Corporate Governance and Company Law Project** was designed to improve the country's commercial law environment. A first draft of the law was completed in June 2005, and sent to parliament in July after an intensive public consultation process. The law was adopted by parliament in March 2006.

The World Bank BERIS Project financed development of an electronic solution for recording and tracking online the bankruptcy proceedings including the option to generate automated reports for the purpose of better analysis and measures and actions foreseen in order to improve the bankruptcy proceedings performance and better policies in market exit in general. The solution became operational since 1.1.2011 and it is a unique software solution in the region specifically targeting the bankruptcy proceedings performance. Thus, as of 2011, the electronic system for tracking all bankruptcy proceedings and all phases within each bankruptcy is functional, enabling the creation of various electronic reports on the implementation of bankruptcies throughout the country. These reports shall bring information and data through 2011 that will be serve as basis for the proposed project identifying the specific domains that are to be subject for specialised assistance through trainings, round tables or expert analyses in order to improve the efficiency of the phase in question (for example it might be evident that there are many proceedings delayed in the phase of pre-bankruptcy phase, or in evaluation of the validity of creditor's claims). These reports should bring valuable data on the reality of the bankruptcy law implementation, to enable prior identification of stakeholders who provoke delays in the procedure (trustees, judges, creditor's disinterest for participating etc..) This project was without a doubt the very first and strong input towards establishment of a database on a regular basis, providing effective tools in handling the bankruptcy proceedings and statistical data that can be further subject to specialized analysis and research prior to enacting concrete policies and measures. The IT solutions component of the project contributed towards assisting and facilitating the work of the bankruptcy trustees. This is of utmost importance since it most definitely sends a clear message that the country does not just impose strong programs and qualifications and legal responsibility for the bankruptcy trustees, but also provides support in establishing efficient tools to increase their performance. This project trained the bankruptcy trustees in handling the electronic tracking of bankruptcy; hence, as of January 1st, the bankruptcy trustees fill in all the data on the current state of play of each of the bankruptcies they are managing in an e-format. At the same time, the wide public and more specifically the creditors receive online information on the prospect of all bankruptcies they are interested for.

World Bank LJIS Project and USAID (2008-2010) were supporting the full capacity building and institutional strengthening programs in the area of bankruptcy for the period 2009-2010 funding various events/seminars/technical (expert) assistance for all stakeholders involved in the bankruptcy proceedings (judges, bankruptcy trustees, creditors). This project established the very first connection between the participants in the bankruptcy proceedings in terms of establishment of first round tables, seminars, conferences for judiciary, bankruptcy trustees and policy-creators (Ministry of economy).

3.7 Lessons learned

Taking into account the targeted goals and activities undertaken both through the Governmental actions and the international assistance, it can be observed that so far the country was able to benefit and progress in the field in terms of improving its capacity to enable quick market exit, it managed to lower the bankruptcy duration, as well as to moderately advance in increasing the recovery rate for creditors.

The first lesson learned upon adopting the new and high quality aligned legislation was that the adoption itself constituted the most relevant pre-condition for efficient bankruptcy policy, whereby all stakeholders (judiciary, Government - Ministry of economy, the business community and academia) reached a wide consensus with regards to the directions of the legal framework for conducting bankruptcy. The adopted legislation necessitated time for review, absorption, interpretation and proper understanding prior its enactment, process which ran in parallel with the needed enhancement of the knowledge, qualification and experience to apply the legal provisions (especially the task for the current bankruptcy trustees to renew their licenses by undergoing educational program and passing of specialized exam).

The completion of the project on establishment of the online electronic solutions for tracking bankruptcies, generated a positive lesson as it addressed the wide criticism with regards to the perceived transparency of the bankruptcy proceedings, as well as the need for receipt of clear timely and accurate information on the prospect of the particular bankruptcy proceedings, thereby increasing the trust and reliance in the established procedures.

The data provided by tracking and recording the bankruptcies online generated by the e-solutions accentuated the need for its systematic analysis, follow up and use when evaluating the phases in the process, the performance of bankruptcy trustees, the activity or passivity of creditors, and most notably on how to propose policy measures towards improvement of the implementation of the law on bankruptcy. Thus, the necessary experience on how to improve the institutional capacity for proper data analysis and the subsequent policy and enforcement proposals requires logical follow in this particular project.

The implementation of projects in the sphere of bankruptcy thus far has likewise pinpointed the need for addressing the present institutional problems in terms of still insufficient capacities and experience to adequately, timely and efficiently implement the Bankruptcy law. This is especially needed as the country does not have specialized courts on trade/bankruptcy disputes; hence the basic civil courts need substantial and targeted assistance necessary to develop its capacity to handle the load of cases.

It is important to strengthen the capacities on the participants in the bankruptcy proceedings, both on the side of public sector and private sector, at all levels in order to ensure sustainability of the activities and enhance full ownership on behalf of the beneficiary institutions. Namely, one of the key lessons learned from the implementation concerns the inadequate qualification, poor experience and weak administrative capacity due to the extreme inter-relation and connection between all actors in the bankruptcy process and absence of practical experience or knowledge as to how best to exercise the rights in bankruptcy and to protect the interests of the stakeholders. There is a strong interrelation in between various classes of creditors vis-à-vis debtors and both in relation to bankruptcy trustees and judiciary.

All the efforts vested in the preparation and delivery of curricula to ToR should take into consideration the Program developed for education of bankruptcy trustees.

Strong commitment from senior management and various final beneficiaries remains crucial for the overall implementation of the project activities.

Special attention needs to be focused on the definition of results and indicators which qualitatively influences the monitoring and evaluation activities that have to produce valid recommendations for the future programming cycles.

Close donor coordination could be valuable for the successful implementation of this project.

The procurement procedure should follow the contracting deadlines for the IPA contribution with regards to the planning of the national co-financing funds and the PRAG procedures for tendering and contracting

4. Indicative Budget (amounts in EUR)

			SOURCES OF FUNDING										
			TOTAL EXP.RE	TOTAL PUBLIC EXP.RE	IPA UNION CONTRIBUTION		NATIONAL PUBLIC CONTRIBUTION					PRIVATE CONTRIBUTION	
ACTIVITIES	IB (1)	INV (1)	EUR (a)=(b)+(e)	EUR (b)=(c)+(d)	EUR (c)	% (2)	Total EUR (d)=(x)+(y)+(z)	% (2)	Central EUR (x)	Regional/Local EUR (y)	IFIs EUR (z)	EUR (e)	% (3)
Service contract	X	/	1.410.000	1.410.000	1.269.000	90	141.000	10	141.000				-
TOTAL IB			1.410.000	1.410.000	1.269.000	90	141.000	10	141.000				
TOTAL INV													
TOTAL PROJECT			1.410.000	1.410.000	1.269.000	90	141.000	10	141.000				

NOTE: DO NOT MIX IB AND INV IN THE SAME ACTIVITY ROW. USE SEPARATE ROW

Amounts net of VAT

(1) In the Activity row use "X" to identify whether IB or INV

(2) Expressed in % of the **Public** Expenditure (column (b))

(3) Expressed in % of the **Total** Expenditure (column (a))

5. Indicative Implementation Schedule (periods broken down per quarter)

Contracts	Start of Tendering	Signature of contract	Project Completion
Service contract	Q2 2012	Q2 2013	Q2 2015

All projects should in principle be ready for tendering in the 1ST Quarter following the signature of the FA.

6. Cross cutting issues

6.1 Equal Opportunity and non – discrimination

Equal opportunity principles and practices in ensuring equal gender participation in the Project will be guaranteed. The competent institutions involved in the project execution will observe equal opportunity of women and men in the human resources development and capacity building activities. The beneficiary will ensure equal access of men and women to the project activities and results and all other forms of discrimination will be eliminated.

6.2 Environmental considerations

N/A

6.3 Support to minorities and vulnerable groups

Minority and vulnerable groups' concerns will be reflected in all activities programmed under IPA, in particular when it concerns public services, legislative matters and socio-economic development.

Equal representation of minorities and vulnerable groups will be the guaranteed project principle. The institutions involved in the project execution will observe equal opportunity for all citizens regardless of their ethnic, religious background or other type of social risk

6.4 Civil Society development and dialogue

The project foresees the important role of the social partners and the civil society, especially of the employees that are left without their job positions due to bankruptcy. Thus substantial efforts will be dedicated with the purpose of regular informing and involvement, whenever possible, of the social partners and all the parties concerned, regarding the project implementation, outcomes and achieved results. By involving CSOs i.e. Chambers of Commerce and others, with trainings for conducting restructuring plans and exercising their rights as creditors, their role and capacities among other stakeholders will be enhanced, thereby contributing towards further civil society development.

6.5 Good governance, with particular attention to fight against corruption

Specific action instruments for the good governance, with particular attention to fight against corruption, will be incorporated on a horizontal basis. To this aim, particular attention should be put in the prevention of corrupt practices, mainly through the raising political and public awareness. The further defining of the bankruptcy trustee profession is expected to positively contribute towards decreasing the possibilities for corruption.

ANNEX 1 - Logical framework matrix in standard format

LOGFRAME PLANNING MATRIX FOR THE PROJECT FICHE:		Programme name and number: National programme for IPA Component I TAIB for 2011 CRIS no: 2011/	
Strengthening the administrative capacities for implementation of the legal framework for bankruptcy and voluntary liquidation of companies		Contracting period expires two years from the date of the conclusion of the Financing Agreement.	Disbursement period expires one year from the final date for execution of contracts.
		Total budget : 1.550.000 EUR	IPA budget: 1.395.000 EUR
Overall objective	Objectively verifiable indicators	Sources of Verification	
Improving the general business environment in the country with regards by winding up of companies through bankruptcy proceedings and voluntary liquidation.	<ul style="list-style-type: none"> - Reducing barriers to market entry and improved market exit (number of companies created and deleted); - Backlog in bankruptcy cases has been further reduced 	<ul style="list-style-type: none"> - EC Reports; - WB Doing business reports; - WEF Reports; - Statistics on filed bankruptcies by private sector creditors; - Statistics on filed bankruptcies by debtors; - Statistics on average duration of liquidation and bankruptcy; - Statistics on different phases within bankruptcy proceedings; - Statistics on bankruptcies ending up with business restructuring plans; - Workshops, seminars and trainings organised in the area of bankruptcy; - Expertise papers and materials covering different sub-areas in liquidation and bankruptcy. 	

<p>Project purpose The project's purpose is to strengthen the institutional capacity for the implementation of the laws on bankruptcy and voluntary liquidation in order to identify and overcome the administrative bottlenecks and weaknesses arising from the implementation.</p>	<p>Objectively verifiable indicators</p> <ul style="list-style-type: none"> - Duration efficiency; - Increased level of creditor's recovery rates; - Increased number of bankruptcy filings coming from private sector; - Increase of bankruptcies leading to a restructuring of bankrupt businesses; - Enhancement of the institutional and administrative capacity of the institutions involved in the implementation of bankruptcy legal framework; - Improvement of the cooperation between the relevant stakeholders in bankruptcy in order to adjust the various interests and achieve plausible results in bankruptcy; - Adopted long-term programs for education, exam curriculum and regular update of the gained knowledge through specialised trainings. 	<p>Sources of Verification</p> <ul style="list-style-type: none"> - EC Reports; - Statistics and other data; - WB Doing business reports; - WEF Reports; - Number of bankruptcy filed, - Number of bankruptcy procedures finished; - Reports on a measured duration of bankruptcy proceedings; - Monitoring Reports for the CFCD. 	<p>Assumptions</p> <ul style="list-style-type: none"> - Availability of adequate representatives of stakeholders at the trainings, seminars and workshops; - Ability to implement the gained knowledge and experience in particular cases.
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Results	Objectively verifiable indicators	Sources of Verification	Assumptions
<ul style="list-style-type: none"> - Timely initiation of bankruptcies in accordance with the conditions stipulated by law; - Pro-active consideration of Plans for restructuring of bankrupt businesses in a bankruptcy procedure; - Updated National Program for education of candidates for bankruptcy trustee; - Updated study materials for bankruptcy trustees and exam papers; - Private sector stakeholders (representatives from employees and companies professional organisations and societies such as chambers, 	<ul style="list-style-type: none"> - Number of bankruptcy proceedings initiated; - Number of bankruptcy proceedings finished; - Number of bankruptcy proceedings within 90 days from the date of permanent bank account insolvency status initiated; - Number of filed bankruptcies by debtors, public and private sector creditors as stipulated by law; - Number of restructuring plans during bankruptcy proceedings drafted; 	<ul style="list-style-type: none"> - EC Reports; - SPO Reports; - Steering Committee Reports; - Number of licensed bankruptcy trustees; - Number of filed bankruptcies; - Bankruptcies ending up with approval of restructuring plans; - Number of finished bankruptcies; - Average duration of bankruptcies; - Number of trainings organised; - Diversity of participants per seminar/training (companies, banks, 	<ul style="list-style-type: none"> - Full commitment of the parties involved.

<p>syndicates etc) informed about the benefits and prospects of early initiation of bankruptcy proceeding, via country wide awareness raising campaign;</p> <ul style="list-style-type: none"> - Annual average recovery rate for creditors is over 25%; - Annual increase of the bankruptcy proceedings initiated by private creditors; - Annual increase of voluntary liquidation proceedings; - Annual increase of restructuring plans in bankruptcy proceedings; - Annual increase of the finished bankruptcy proceedings; - Annual increase of voluntary liquidations; - Annual increase of licensed bankruptcy trustees; - Annual decrease in duration of bankruptcy proceedings for small or medium sized enterprises; - Judiciary and bankruptcy trustees trained in evaluation and decision making and in particular in the process of reorganisation/restructuring plans in bankruptcy; - Judiciary and Bankruptcy trustees exercise their functions in connection with evaluation of business restructuring plans. 	<ul style="list-style-type: none"> - Number of companies which completed bankruptcy proceedings through restructuring business plans or as new entities; - Number of initiated voluntary liquidations; - Number of finished liquidation bankruptcies; - National Program for education of candidates for bankruptcy trustee updated; - Study materials for bankruptcy trustees and exam papers updated; - Number of organised Round table discussions among creditors-judiciary/bankruptcy trustees-public sector creditors; - Number of specialised trainings organised for particular areas in bankruptcy (on time filing, drafting restructuring plans, pro-active involvement); - Study visit organised and carried out; - Assessment report of EU best practices in the field conducted; - Awareness-raising materials prepared, printed and published; - Number of campaigns broadcasted; - Annual average recovery rate for creditors increased. 	<p>judges, trustees, chambers, academic workers);</p> <ul style="list-style-type: none"> - Study visit report; - Training programme and timeline; - Evaluation form from the trainings and study visits. 	
Activities	Means	Costs	Assumptions
<ul style="list-style-type: none"> - Review of the programs, trainings, exams and licensing procedure for bankruptcy trustees; - Preparing of training materials and expert papers on exercise of private sector creditors (banks, corporations, limited liability); 	<p>1 service contract:</p> <ul style="list-style-type: none"> - International experts in company law and bankruptcy law experienced in 	<p>Service contract: 1.550.000 EUR IPA funds: 1.395.000 EUR National co-financing: 155.000 EUR</p>	<p>International experts should gather data and information on national bankruptcy and liquidation law from the Company law and Law on Bankruptcy that are in force, but</p>

<ul style="list-style-type: none"> - Training of bankruptcy trustees and liquidators in taking over the assets of the debtor's estate (reductions to cash, distributions to creditors, subject to the debtor's right to retain certain exempt property and the rights of secured creditors); - Assessment of the best EU practice in this field; - Organisation of a study visit in a country with a similar legal and institutional framework; - Training of Ministry of economy staff in efficient creation, adoption, implementation, tracking and monitoring process in relation closing of businesses; - Training of bankruptcy judges in evaluation of the debtor's assets in bankruptcy; - Know-how transfer to judiciary in better organisation of the bankruptcy cases overloads; - Training of bankruptcy judges in dealing with creditor's rights deriving from other private commercial obligations contracts and businesses with debtor, whether they are secured or not (pledge, mortgage); - Informing various classes of private creditors (private entities, employees, state, banks) on their rights deriving from holding an unsecured claim that will get a distribution from the bankruptcy estate only if the case is an asset case and the creditor files a proof of claim with the bankruptcy court and not in so called "no-asset cases"; - Knowledge transfer of best European Union practices in assessing the possibility for preparation and adoption of reorganisation plan for the debtor during bankruptcy; - Promotion of the bankruptcy trustee profession 	<p>analyzing and proposing recommendations for efficient improvement of the implementation of national legal framework in bankruptcy;²</p> <ul style="list-style-type: none"> - International experts experienced for providing training and capacity building programs for stakeholders in bankruptcy and liquidation; - Study visit to EU member state; - Publishing brochures, printing materials, media presentations on quick introduction and first steps for creditors to file bankruptcies, settle their claims in the process, or draft restructuring plans, start-up of voluntary liquidation, the promotion of pros for debtors for on time filing of bankruptcy and quick exit of market in order to start-up new business. 		<p>also relay on identified bottlenecks in the factual implementation of legal framework in bankruptcy from the Ministry of economy and Ministry of justice and via direct contact with private sector creditors, bankruptcy trustees and debtors.</p> <p>Thus the assumption is that the relevant stakeholders (Ministry of economy in particular as key stakeholder) shall be prepared and provide international experts with the crucial information and data that will be subject to further expertise. Further to the above, experts shall be free to seek and propose other areas that require in-depth analyse and recommend appropriate measures and actions</p>
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² The experts shall not be required to exercise compliance and comparative research of laws and drafting proposals for amendments of the national legal framework.

as solid, valuable and attractive for future candidates.			
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Pre conditions:

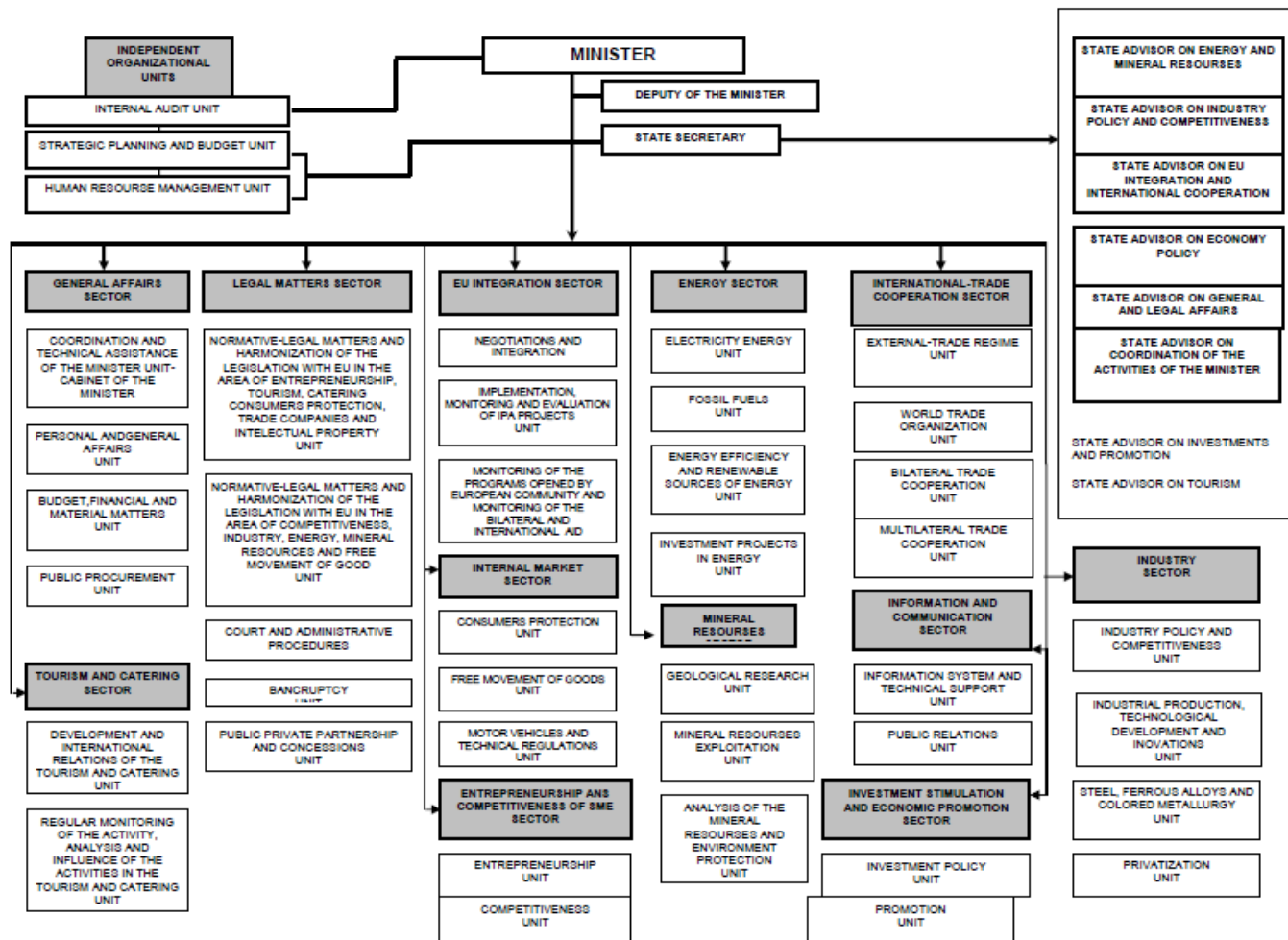
- Endorsement by all key stakeholders of the Terms of Reference, specifications for the individual contracts to be engaged;
- Appointment of counterpart personnel by the beneficiaries before contract signatory;
- Allocation of working space and facilities within the premises of the beneficiaries before contract signatory;
- Participation by the beneficiaries in the tender process as per EU regulations;
- Organisation, selection, appointment and participation of members of working groups, steering and coordination committees, seminars by the beneficiaries as per work plan of the project;
- Appointing the relevant staff by the beneficiaries to participate in training activities as per work plan;
- Sufficient managerial, technical and human resources allocated to the relevant Departments;
- EU procedures to be followed in all tender procedure.

If the conditionalities are not met, suspension or cancellation of projects will be considered.

ANNEX II - Amounts (in €) Contracted and disbursed by quarter for the project

	2013				2014				2015			
Contracted	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Service contract		1.550.000										
Cumulated		1.550.000										
Disbursed	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Service contract		465.000			465.000			465.000		155.000		
Cumulated		465.000			930.000			1.395.000		1.550.000		

Annex III - Description of Institutional Framework



ANNEX IV - Reference to Laws, Regulations and Strategic Documents:

Reference to Laws, Regulations and Strategic Documents:

- Law on Bankruptcy (Official journal 34/2006; 126/2006; 84/2007);
- Company law (Official journal 28/2004; 84/2005; 35/2007; 87/2008; 42/2010; 48/2010);
- Strategic plan of the Ministry of economy (2010 - 2012);
- Ministry of economy Annual program for the bankruptcy policy.

ANNEX V - Details per EU funded contract:

Management and contracting arrangements

The co-ordination of the activities foreseen to be carried out is of key importance. Therefore, the management structure will be established so as to oversee the overall implementation of the project and to ensure appropriate coordination between the different activities supported by the project. For guaranteeing overall project results, as outlined in the fiche and for beneficiary coordination and management, a high-ranking employee of the Ministry of Economy shall be nominated. This person shall closely coordinate the project activities on the side of the beneficiaries with appointed staff from the bankruptcy unit within Legal Department. These staff shall be responsible for linking the other beneficiary institutions such as the Chamber of Bankruptcy trustees, Economic Chambers, as professional organisations representing the business sector, Academy of prosecutors and judges, and also the professional organisations representing commercial banks as specific creditors which are concerned in almost any bankruptcy proceeding. Also the Ministry of economy staff shall be responsible for providing effective link with beneficiaries on the side of the public sector, which are

identified as most prominent creditors in bankruptcies, in particular the Public revenue office and social insurance funds and will be nominated to ensure that beneficiary tasks and responsibilities are followed in parallel with the outputs of the consultants.

The private sector shall be involved on an informative basis as a relevant stakeholder and the involvement shall be carried out through the respective chambers under the coordination of Ministry of economy. The Chamber of Bankruptcy trustees shall be the contact point through which the project shall carry out the services under coordination of the Ministry of economy. The Ministry of Justice and the Academy of prosecutors and judges shall be involved as institutions on a coordinative basis and serve as a connection with judiciary, and their input with regards to project activities shall be expressed to the Ministry of economy. The Academy shall serve as key contact point for coordination of the Project with the judicial sector in particular in planning the project activities related to providing services to judiciary in the area of bankruptcy.

The contractor/provider of the TA, will appoint a Team leader and key experts. The Team leader shall have the responsibility to ensure that the contractor (key experts) will properly deliver the specified results. The key experts shall be responsible for the overall management, representation (co-ordination with the EU and other international bodies) as well as reporting on the activities of the project. The team leaders are responsible for an appropriate management of resources. During the inception phase of the project, a detailed deployment plan will be developed under the coordination of the Steering Committee.

A Steering Committee, consisting of the Team leader, the representatives from the Ministry of Economy Department for EU integration, Legal department – Unit for bankruptcy, Academy of prosecutors and judges, Chamber of Bankruptcy trustees, relevant registered economic chambers, EU Delegation, SEA, CFCD and the SPO staff, will be established, chaired by the Head of the European Integration Department. The Steering committee shall meet on a quarterly basis to discuss progress of the project activities and outline planning and progress. The agenda and the minutes of the meetings will be produced by the Team leader.

The expected contracting arrangement

- 1 service contract will be concluded. The duration of the contract is expected to be up to 24 months. The contract value will be approximately 1.550.000 EUR, out of which IPA contribution will amount 1.395.000 EUR, while national contribution will amount 155.000 EUR. Contract signature is foreseen for Q2 2013.