



Coronavirus pandemic: moratorium on bankruptcy and other legislation changes

This digest uses information and documents as of April 30, 2020

In connection with the pandemic, the Russian bankruptcy legislation has been amended, namely, by introducing a moratorium on bankruptcy proceedings for certain categories of debtors.

In previous digests, Law Group Paradigma has already covered the main legislative provisions on this topic.

However, the next legislative changes and clarifications of the higher courts were not long in coming.

Moratorium on bankruptcy: right or obligation

- The Law “On Insolvency (Bankruptcy)” has been supplemented by the provision that any person who is subject to a moratorium has the right to declare refusal to apply a moratorium against him.
- Information about such a refusal is public and is entered in the Unified Federal Register of Bankruptcy Information.
- In this case, bankruptcy claims of creditors are subject to general review, and enforcement proceedings against the debtor will not be suspended.
- If the Government of the Russian Federation extends the moratorium, a person will have a right to resubmit the refusal to apply a moratorium against him. The refusal made earlier in this case will be no longer effective.

Transactions completed during the moratorium

In the previous version of the law, there was a provision on the nullity of transactions made by the debtor on transfer of property and assumption of obligations during the period of the moratorium - in the event bankruptcy case is initiated within three months after the termination of the moratorium.

Now this provision is excluded and shall not be applied.

Enforcement proceedings during the moratorium on bankruptcy

- Despite the fact that enforcement proceedings on claims for property that arose prior to the moratorium are suspended, the courts still have the power to issue a writ of execution based on the judicial acts rendered on claims for property.
 - Despite the moratorium, arrests on the debtor's property and other restrictions regarding the disposal of the debtor's property, imposed during the enforcement proceedings, are not lifted.
 - The introduction of a moratorium means that creditors cannot obtain execution of a judicial act by sending executive documents (writ of execution) to a credit organization. Moreover, the fact that the claim arose before the moratorium was introduced does not matter.
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It should be taken into account that **the moratorium**:

- **does not apply to the creditor's applications** declaring a debtor that is in process of liquidation bankrupt; and
 - does not affect the possibility of claims against debtors to whom it applies to be heard during the moratorium.
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Notice of intent to file a bankruptcy petition against a debtor

- We would like to remind that creditor's notice of intent to file a bankruptcy petition against a debtor filed during the moratorium is considered invalid.
 - In this regard, the Russian Supreme Court explained that creditors will have to re-send such notices of intent to the court after the end of the moratorium.
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