

# **CHANCES OF THE BUSINESS RECOVERY PRINCIPLE IN MODERN INSOLVENCY LAW**

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## Use of different forms of the business recovery principle pro rata the liquidation approach

Year	Permitted compositions/reorganizations*	% recoveries of total	Declared bankruptcies**
2003	9	0.52	1 719
2004	6	0.42	1 435
2005	6	0.49	1 230
2006	7	0.56	1 238
2007	11	0.99	1 104
2008	6	0.91	651
2009	14	0.84	1 660
2010	19	0.97	1 948
2011	17	0.76	2 229

\* Including compositions under the Act on Bankruptcy and Composition until 2007, and under the Insolvency Act in later years

\*\* Businesses only

Source: Czech Ministry of Justice, [www.insolvencni-zakon.cz](http://www.insolvencni-zakon.cz)

## Reorganizations transformed to bankruptcies in the course of the proceedings

Year	2008	2009	2010	2011
Number	0	0	4	7*

\* Of which four bankruptcies were declared after reorganization was approved as the bankruptcy resolution method, and three after the reorganization plan was approved.

(Source: Czech Ministry of Justice, [www.insolvenčni-zakon.cz](http://www.insolvenčni-zakon.cz))

## Bankruptcies rejected for lack of debtor's assets

Year	Bankruptcies rejected for lack of debtor's assets	Bankruptcies declared	Reorganisations admitted
2003	627	1 719	9
2004	889	1 435	6
2005	1 159	1 230	6
2006	1 536	1 238	7
2007	1 986	1 104	11
2008	668	651	6
2009	1 568	1 660	14
2010	1 571	1 948	19
2011	1 441	2 229	17

(Source: Czech Ministry of Justice, [www.insolvenčni-zakon.cz](http://www.insolvenčni-zakon.cz))

## Insolvency petitions filed by debtors and creditors

Year	Petitions by debtors in total	Petitions by debtors - individuals	Other petitions by debtors	Total petitions by creditors
2008	3 899	1 687	2 212	959
2009	7 382	3 722	3 660	1 966
2010	13 616	9 976	3 640	2 439
2011	21 549	17 933	3 616	2 882

(Source: Czech Ministry of Justice, [www.insolvencni-zakon.cz](http://www.insolvencni-zakon.cz))

## **CONCLUSION**

**In terms of legislation, we can hardly expect changes that would truly promote the business recovery principle at the expense of the liquidation approach.**

**The Insolvency Act is hardly a perfect piece of legislation that would offer definite resolutions to reorganization issues; actually, it would benefit from a simplification of some of its provisions. However, even if it had been drafted perfectly, it would not help promote the business recovery principle. Reorganization as a method of resolving bankruptcies will be more successful only if the general situation offers a real and a relatively risk-free opportunity for the creditors to gain substantially higher proceeds from their receivables in the reorganization than in a simple sale within the bankruptcy proceedings.**