

## **BANKRUPTCY OF NATURAL PERSONS IN LITHUANIA: ISSUES AND SOLUTIONS**

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### **Abstract**

This article deals with the issues related to the implementation of the Law on the Bankruptcy of Natural Persons which came into force in Lithuania on 1 March 2013. The authors briefly discuss the nature and essence of bankruptcy of natural persons as a social phenomenon, and explore the problematic issues that are likely to come up in the practice of Lithuanian courts when applying the provisions of the Law on Bankruptcy of Natural Persons in specific stages of these proceedings.

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**Keywords:** Bankruptcy, bankruptcy of natural persons, rehabilitation models of debtors

### **Introduction**

Modern democracies obligate the state to provide each good-faith individual who finds himself in a difficult financial situation with the “second chance”. The (partial) debt relief procedure applicable to debtors is, in principle, more linked not with bankruptcy as such and condemnation of debtors but with their rehabilitation and the so-called “fresh start” which is based on the inherent right of each individual to dignity. In view of the authors of the article, bankruptcy proceedings of natural persons should be regulated so as to be accessible and effective only to honest persons, and to prevent their recurrence in several years; they should also make it possible to ascertain the true causes which compelled the persons to go bankrupt. It is discussed in the article that bankruptcy proceedings should focus on identification of the causes that led to bankruptcy, assess the person's good faith, without disregarding the drawing up of a payment plan and adequate supervision over its compliance. In such a case, reasonable alignment is required of rehabilitation models focusing on the debtor's good faith as well as on the payment plan and its performance.

During the recent three decades, the institute of bankruptcy of natural persons came into existence in many European states. The rules regulating bankruptcy of a contemporary natural person are usually legitimised in national laws when the states encounter the so-called “debt crisis” (after the economic downturn of 1980 in France; after the increase of unemployment in 1990 in Finland, etc.). The institute of bankruptcy of natural persons in Lithuania was established in law in 2012.

This research focuses on the issues of application of the institute of bankruptcy of natural persons.

The purpose of the article is, with reference to legal acts and scientific doctrine, to disclose the problems of bankruptcy of natural persons and the possibilities of their rehabilitation by means of bankruptcy procedure of natural persons.

The data of the research were gathered using the documentary analysis method while the analysis of the data collected was based on the method of qualitative content analysis together with the systemic, teleological and comparative methods.

### **1. Origin and Substance of Bankruptcy of Natural Persons**

Economic operations imply risk. It is an integral and natural part of modern life inevitably encountered by every person – both professionals engaged in business transactions and customers acquiring certain goods or services in order to satisfy their personal, domestic or family needs. When objective and/or subjective reasons make such individual unable to fulfil debt obligations (in a proper manner), the issue of insolvency and bankruptcy comes up (Kavalnė, S. *et al.*, 2009).

Bankruptcy, as a social phenomenon, is, first of all, linked with the person's inability to repay debts. This phenomenon has been known since the ancient times. Table III of the Law of the Twelve Tables, for example, is in principle designated to regulate the issues related to the specifics of legal fate of the debtor who is unable to fulfil his property obligations according to the judgment of the magistrate (pretor) or the court (Vėlyvis, S. Jonaitis, M., 2007, P. 41-43). The provisions of the first written source of the Roman law, which are associated with the bankruptcy of natural persons, undoubtedly prove that the transformation of this social phenomenon into a legal one took place more than 2500 years ago. Although the concept of bankruptcy, which originated in the Medieval times in Italy, did not exist at that time and there was no special judicial procedure to state that a natural person is bankrupt, as it is the case in contemporary law, the phases of debt award, the period to repay the debt voluntarily and its coercive recovery, in fact, remain unchanged. The actions of coercive enforcement against the debtor due to his inability to pay the amount awarded by the court within the set time-limit was allowed only on the basis of the court's or magistrate's (pretor's)

judgment. In the absence of the principles of universally predominant equality and humanity in the society of those times, the nature of applicable sanctions was definitely different – it was sought to “eliminate” socially disabled persons from the society rather than rehabilitate them. Nevertheless, the beginning of bankruptcy proceedings is undoubtedly linked with the Roman law.

The possibility to release natural persons from the payment of debts has been recognised in Great Britain since the 18<sup>th</sup> century already. Following the legitimisation of the minimum mechanisms of human rights' protection on the international (global and regional) level after the two world wars (the Universal Human Rights Declaration was adopted on 10 December 1948; the Convention on the Protection of Human Rights and Fundamental Freedoms was adopted in 1950), the situation of individuals in the state has been consistently changing. With predominance of the rule of law, the principal weight has been vested in the state that undertook a commitment to the international community to respect human rights and freedoms, ensure them and secure adequate protection in case of infringements. After the state, as a political organisation, became the servant of people, human rights and freedoms underwent inevitable evolution, expanding in their scope. The concept of bankruptcy has been developing accordingly. Bankruptcy, as a result of the individual's economic life, could no longer stay outside the scope of universal law. The state itself, having undertaken to secure social concord and, indirectly, also economic and political stability, did not always carry out its fundamental functions properly. Extremely intensive development of human rights inevitably led to the legitimisation of the state's obligation to provide each honest individual who finds himself in a difficult financial situation with the “second chance” – at first, only in national laws and, later, also on the regional level (Gruodytė, E.; Kiršienė, J., 2010, P. 263–273).

During the recent three decades, the institute of bankruptcy of natural persons came into existence in many European states. The rules regulating bankruptcy of a contemporary natural person are usually legitimised in national laws when the states encounter the so-called “debt crisis” (after the economic downturn of 1980 in France; after the increase of unemployment in 1990 in Finland, etc.). Council Regulation (EC) No 1346/2000 on insolvency proceedings adopted on the level of the European Union on 29 May 2000 came into force on 31 December 2002, except the 12 states that entered into the European Union later, including Lithuania.

Consistent evolution of the bankruptcy law of natural persons has made the (partial) debt relief procedure applicable to debtors more linked not with bankruptcy and condemnation of debtors but with their rehabilitation

and the so-called “fresh start”, which stems from the inherent right of each individual to dignity.

## **2. Objective of Bankruptcy of Natural Persons**

Bankruptcy proceedings of natural persons should be regulated so that the bankruptcy proceedings do not recur and the natural person does not go bankrupt repeatedly; they should also prevent the abuse of this institute. At the same time, the causes/reasons which made the person to go bankrupt should be eliminated.

The resolution adopted by the Conference of the European Ministers of Justice on 8 April 2005 underlines the need for preventing problems arising from over-indebtedness and emphasises the important role of the Council of Europe and its responsibility to assist the member states to find alternative solutions to avoid over-indebtedness of natural persons through various means such as financial advice and education, as well as management of debt. It should be noted, however, that envisaging all necessary social and legal measures to help to protect from insolvency is extremely difficult. Although this goal is socially meaningful, it cannot be the only goal. In addition to the aforementioned preventive objective, legal literature singles out the objectives of alleviating the debtor's situation in debt recovery and his rehabilitation (Kiesilainen, N. J.; Henrikon, A. S., 2005, P. 11-29). The alleviation of the debtor's situation aims at developing a proper and functioning debt recovery mechanism, in particular taking into account nowadays globalisation and various resultant difficulties and, on the other hand, to ensure the satisfaction of minimum needs of the debtor and, in particular, his family members (for example, young children) as well as possibilities of life with dignity during debt recovery proceedings (Astromskis, P., Gruodytė, E.; Kiršienė, J. 2010, P. 221). The securing of minimum needs of the debtor following general procedural rules of the Lithuanian enforcement proceedings is ensured, for example, by Articles 663 and 668 of the Code of Civil Procedure. Rehabilitation is understood as the restoration of the debtor's economic capacity over a certain period of time in order to avoid repeated bankruptcy.

For the purposes of economic and social rehabilitation of over-indebted persons, as the principal aim in order to restore solvency, several models of rehabilitation are distinguished: (1) model of the Nordic countries where special emphasis is placed on the debtor's good faith. Courts are allowed not to satisfy a request of the natural person in case it is ascertained that the debtor behaved irresponsibly, did not make sufficient effort in order to repay the debts or, acting unreasonably and carelessly, contributed to his over-indebtedness before the initiation of bankruptcy proceedings; (2) German–Austrian model where special emphasis is placed on the payment plan and its performance; (3) French model where preventive measures

predominate and extra judicial arrangements are encouraged (Astromskis, P., Gruodytė, E.; Kiršienė, J. 2010, P. 224). The Lithuanian Law on the Bankruptcy of Natural Persons (hereinafter – the Law), which came into force only on 1 March 2013, in principle, contains a reflection of the first two rehabilitation models.

This article will further explore the specifics of the bankruptcy of natural persons established in Lithuania, discuss the problems likely to be encountered in the case-law and offer potential solutions.

### **3. Discussion of Specific Problematic Issues in the Lithuanian Bankruptcy Law of Natural Persons**

The success of bankruptcy proceedings, *inter alia*, depends on the relationship between the debtor's right to seek the “writing-off” of (part of) his debts under judicial procedure and, in this way, the “return” to the social community and the rights of creditors to claim the amounts due from the debtor.

One of the fundamental provisions and one of the most positive elements of this Law is the fact that the Law aims at creating conditions for restoring the solvency of *good-faith* persons *only* (Article 1(1) of the Law). This principal provisions and one of the objectives of the Law is not merely a declarative statement – it is consistently reflected throughout the whole Law. Good faith, as a core value, is inextricably linked to the person's ability to participate in bankruptcy proceedings in order to alleviate his property situation by means of an arrangement with the creditors. A bad-faith individual cannot take part in the procedure of “writing-off” of his debts and write them off on account of creditors who acted in good faith. Any interpretation of the law to the contrary would conflict with the principle of justice because the balance of different interests would be distorted in favour of the bad-faith party and in this way would infringe another objective of the Law – to seek *fair* balance between the interests of the debtor and his creditors. The court does not verify and cannot verify the aspect of bad/good faith at the stage of institution of civil proceedings because it is related to the content of an individual right. In later stages of bankruptcy proceedings, however, the coming to light of a legal fact or its elements, which makes it possible to believe reasonably that the person seeking bankruptcy acts in bad faith on the issue of his insolvency, i.e. that he has led himself to insolvency by his actions or omissions, constitutes the grounds for the court to refuse instituting bankruptcy proceedings to such a person (Article 5(8)(2) of the Law). If the circumstances proving the person's (applicant's) bad faith come to light after the institution of bankruptcy proceedings to him, the court has to terminate the bankruptcy case (Article 10(1), sub-paragraphs 3 and 6). It should be stressed that a general rule for sharing the burden of proof is applicable in these, as in all other civil proceedings – each party should

prove the circumstances it invokes to support his claims or counter-claims (Articles 12, 178 of the Code of Civil Procedure). A natural person seeks to acquire the legal status of the person under bankruptcy during bankruptcy proceedings and avoid repaying part of the debts to his creditors, i.e. seeks personal benefit. It means that he is not released from the burden of proof and, throughout the proceedings, has to substantiate his good faith, i.e. eliminate any doubts as to the likelihood of his bad faith. Legal facts in support of the person's bad faith that come to light both before and during the bankruptcy proceedings form the basis to end the bankruptcy proceedings to the debtor's disadvantage, for example, on the grounds that false data about the causes of over-indebtedness have been provided. In all cases, however, the court has to ascertain the causal link between the circumstances proving the person's unfair actions/omissions and his over-indebtedness, the restoration of his solvency, inability to comply with the payment plan in a proper manner due to such circumstances and the detriment to the interests of the creditors. For example, the only legal fact that there is an enforceable decision against the person rendered by the court in civil proceedings on the basis of *actio Pauliana* whereby the debtor has been declared to act in bad faith, is not a sufficient basis to conclude that the court should refuse instituting bankruptcy proceedings to such individual. At the same time it should be noted that the standards of good faith to persons who may go bankrupt – consumers and persons engaged in individual or equivalent operations are not, and cannot, be identical. Business entities or professional service providers are subject to significantly higher standards of prudence and duty of care and even a relatively minor intentional disregard of the rules of general nature may be considered to be bad-faith conduct. Meanwhile the protection of consumer rights is a priority direction and area even in the European Union, therefore, the consumer is declared to act in bad faith only when the opposite finding is impossible.

Analysing the basis for instituting bankruptcy proceedings to natural persons it should be admitted that, differently to bankruptcy of enterprises, when, in accordance with the Enterprise Bankruptcy Law (hereinafter – the EBL), in formal terms bankruptcy proceedings may be instituted even to a solvent enterprise (Article 9 (5) of the Enterprise Bankruptcy Law) in Lithuania, bankruptcy proceedings to a natural person may be instituted only after his insolvency has been verified. There is a distinction between insolvency and the person's unwillingness to make payment, temporary payment failures as well as impending insolvency. Insolvency is described by three criteria linked with: (1) overdue debt payments; (2) assessment of the person's real property situation (the person should be unable to perform his commitments); (3) debt amount (overdue debts should amount to at least 25 minimum monthly wages; i.e. it is reasonably linked with a floating

variable rather than a fixed variable<sup>6</sup>). When assessing the person's situation, no account is taken of the creditors' claims which cannot be written off and which are not directly “involved” in the bankruptcy proceedings (Article 5(8)(1), Article 29(7) of the Law). Writing off is not allowed of the claims of creditors of three types: (1) claims for the compensation of damage for mutilation or any other bodily injury or death; (2) claims for pecuniary funds for maintenance (alimony) of children (foster children); (3) claims arising out of a natural person's obligation to pay fines to the state imposed for the infringements of administrative law or criminal offences committed by the natural person. In our opinion, the above-referred creditors' claims should be interpreted broadly. For example, the list of creditors who are not directly involved in bankruptcy proceedings should include not only children, but also parents, if their children do not comply with their statutory maintenance obligation in respect of the parents; also other persons under contracts of annuity for life; such instances should also include the cases when a person is imposed a fine for procedural abuse in civil cases, etc. At the same time it should be noted that courts will have to answer the question in their case-law whether the person who seeks bankruptcy is likely to go bankrupt as a consumer only or also as an entity engaged in individual operations where bankruptcy proceedings are requested by the person engaged in individual operations and the debts overdue by him do not exceed the threshold applicable both to businessmen and consumers, i.e. 25 minimum monthly wages taken separately, but are above the minimum caps applicable to debts if taken together.

Another positive feature is the legislator's position on the temporal scope of the norms according to which the Law is applicable to any natural person irrespective of the moment of origin of his debt obligations, i.e. based on the moment of commencement of the proceedings. In this way, access to bankruptcy proceedings is available to each natural person, irrespective of the time of origin of his debt liabilities.

The issue of procedural law which has not been solved clearly in the Law is the procedure to be followed when hearing bankruptcy cases of natural persons. The Law states that bankruptcy proceedings should commence after the applicant submits an application (Article 4, paragraphs 1 and 3 of the Law). The person who initiates such proceedings is called the applicant. This creates the impression that such cases should be heard without suit or by means of the so-called special proceedings where the applicant and the parties concerned take part. This impression is strengthened by the fact that the right of initiation of bankruptcy proceedings is held only by the natural person himself. On the other hand, it is indicated

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<sup>6</sup> At present, this amount is LTL 25 000, i.e. approximately EUR 7 225.

in Article 5(1) of the Law that such cases are instituted and heard according to contentious procedure, save for the exceptions laid down in the Law. The latter position may be supported. Firstly, disputes are undoubtedly likely in bankruptcy proceedings of natural persons. Both creditors related to the person who initiates bankruptcy proceedings against himself and other persons, for example, the spouse of such individual, may have a different interest in the outcome of the case. The Law may not ignore, on formal grounds, their legitimate interests and prohibit them from participating on the side of the claimant or the respondent, i.e. speaking in favour or against the claim. Secondly, such cases do not imply the public interest or, to be more precise, the public interest is not predominant in such cases. Bankruptcy proceedings mean a claim of one, good-faith individual to write off his debts at the cost of one or several creditors. The mere fact that bankruptcy rather than debt recovery proceedings are initiated with respect to such a person, i.e. the proceedings are based on debt accumulation, does not form any basis to draw a different conclusion. The court should not play an active role in such cases and apply the interrogative and other principles used in special proceedings.

#### **4. Phases of Bankruptcy Proceedings**

A consistent analysis of the bankruptcy procedure of natural persons established in Lithuania shows that it may relatively be split into several phases – institution of bankruptcy proceedings, approval of creditors' claims, consideration of the plan and implementation of the plan.

##### ***First phase***

Based on the person's application to institute bankruptcy proceedings to him (application for the declaration of insolvency), it is decided whether his substantive legal claim is well founded. It is with reason that the legislator imposes an obligatory pre-trial examination procedure for this category of cases – this creates realistic possibilities for the debtor and his creditors to solve the issue prior to a judicial hearing. The court, having verified whether the pre-trial dispute resolution procedure out of court has been complied with, decides on admissibility of the application by its ruling; if the court ascertains that there are all general and specific preconditions to access the court as well as the preconditions for exercising this right ((a) the causes that led to the insolvency of the natural person and the documents supporting the insolvency; (b) a list of all assets held by the natural person; (c) information about the cases pending at courts where property claims have been filed) it renders a ruling and gets ready for the hearing of the substantive legal claim and resolves the issue on the merits.

Another relevant issue is administrator's appointment. The principal position of the legislator regarding the suggestion (selection) of candidates to the administrator should be assessed positively. The administrator's



candidacy may be suggested by the applicant himself and only if this candidate is unsuitable or the applicant does not nominate it, the administrator selected by the Enterprise Bankruptcy Management Department according to regulatory legal acts is appointed (Article 4(5), Article 11(2) of the Law). The creditors, in principle, should not be involved in the appointment procedure of the bankruptcy administrator. On the other hand, Article 11(2) of the Law provides them with the right to suggest a candidate to the administrator. It should be taken into account, however, that the issue of appointment of the administrator is of procedural nature and in any case the right of appeal against the court's ruling on the appointment of the administrator should not be granted to creditors.

Grounds of refusal to institute bankruptcy proceedings could be relatively divided into three groups:

(1) *Solvency of the person.*

(2) *Causes of insolvency:* A. Insolvency as an outcome of the debtor's bad faith (not only transactions, but also other unfair actions to be ascertained under the judicial procedure); B. Insolvency as an outcome of harmful habits (alcohol abuse, addiction to narcotic or other psychotropic substances, gambling, etc.); C. Insolvency as an outcome of commission of the offences against property referred to in the Law, if the criminal record is unexpired.

(3) *Repeatability.* Ten years have not expired after the termination or end of the natural person's bankruptcy proceedings, unless the proceedings have been terminated as a result of the failure to approve the plan or bankruptcy proceedings have been instituted against the legal entity of unlimited civil liability where the natural person is a member of. Repeatability is also applied in the cases when bankruptcy proceedings against the person have been instituted and closed within this period of time outside the territory of Lithuania.

If the court finds out that there are no grounds to refuse instituting bankruptcy proceedings, the application should be satisfied. It should be noted that, after the ruling on the institution of bankruptcy proceedings becomes enforceable, it gives rise to legal outcomes both of substantive legal nature (for example, termination in the calculation of penalties and interest, exemption of the assets from coercive mortgage) and of procedural legal nature.

### ***Second phase***

After the person acquires the status of the person under bankruptcy, the issue of creditors who will, in a certain sense, further decide the legal fate of this individual comes up. Pecuniary claims of the persons who were considered potential creditors until that time will have to be approved by the

court's ruling to enable such persons to acquire all the rights granted to creditors by the Law, including the right to decide on the plan.

In case of simplified bankruptcy proceedings (it is likely that the number of such claims will be increasing and will predominate in the future), potential creditors will be allowed to take part in the deliberations on and approval of the plan and, in one ruling, the court will resolve all issues dealt with in the previous phases – the issue on the institution of bankruptcy proceedings, the approval of creditor's claims, and the approval of the plan. This can give rise to claims regarding the validity of such ruling if an appeal is made against a specific part of the procedural decision only.

### ***Third phase***

An enforceable ruling on the approval of creditors' claims forms the basis to commence the third phase to take a decision on the principal document – consideration and approval of the plan. At the same time it should be noted that, once the court satisfies an application to institute bankruptcy proceedings by its ruling, such ruling does not require recognition in any foreign state even if some coercive enforcement actions will have to be taken with respect to the assets in that state – such claims for recognition do not require coercive enforcement and the legal fact established in the ruling is binding to all persons.

The plan is not only a personal financial document. It is the document where, using the methods agreed by the person together with the administrator and the creditors, the true insolvency causes are identified and further life (not only financial) of the person during the period of the bankruptcy procedure is reflected (Article 7 of the Law). It is very important that the maximum duration of implementation of such a plan, the issue of approval whereof is finally decided by the court in a ruling, is not longer than 5 years in Lithuania. It is an undoubtedly very long period of time for bankruptcy proceedings to take place and for the person to seek patiently some writing off of the part of the debts on which it has been agreed. In Latvia, for example, the sale procedures of the assets have to be completed during 6 months. The length of bankruptcy proceedings in England is also shorter – up to one year. It is also due to these reasons that these states are becoming the *shopping zones* for bankruptcy<sup>7</sup>. It is likely that this phase will bring out a relevant procedural issue related to the persons who may be interested to be involved in the proceedings while deliberating on the plan, for example, the persons whose claims may not be written off during bankruptcy proceedings but who find the issues relevant in terms of the debtor's property situation and its changes resultant from a change in the

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<sup>7</sup> In Great Britain, bankruptcy of foreigners, in particular, Germans, Irish, migrants from the new EU member states is especially popular.

person's legal status. Practical problems may also come up because changes in the plan (and the plan, most likely, will have to be changed quite often to due objective reasons) will have to be made following the same rules as those applicable for its approval, i.e. non-simplified proceedings will lead to lengthy procedures.

#### ***Fourth phase***

During the implementation phase of the plan, the court's participation will, in principle, be minimum – only when, following the Law, the court will have to render a procedural decision and resolve some issues, including those related to the foreclosure of the person's assets. This phase will almost certainly bring out open questions related to the foreclosure of common assets of the spouses when recovery under the general procedure takes place in respect of one of them and bankruptcy procedures are applied in respect of the other – whether foreclosure procedures be administered by the bankruptcy administrator or the bailiff, etc. We believe that the criterion of maximum economic benefit to creditors should be applied in all cases without prejudice to the fact that bankruptcy proceedings are based on the principle of accumulation. The priority of satisfaction of creditor's claims is, in principle, similar to that established in the Enterprise Bankruptcy Law where it has not been answered clearly so far why priority is not afforded to the protection of consumer interests. It is true that in case of bankruptcy of natural person the interests of the state in the broad sense are protected more than in case of bankruptcy of enterprises – in the former case the state authorities enjoy the right of first claim while in the latter their rights of claim are secondary after the employees according to the Enterprise Bankruptcy Law. Besides, some of the debts to the state may not be written off in general, etc. There will also be uncertainties as to when bankruptcy proceedings should be closed by a ruling and when by a decision. It is believed that a bankruptcy case, like any other civil case disposed of under contentious litigation procedure, should be heard on the merits and completed by a court's decision, to which different requirements apply in terms of content, appeal procedure and hearing at the court of appeal instance. Practical problems will also certainly be encountered in the area of legal protection of personal data, and not only in relation to the persons to whom bankruptcy proceedings are instituted; for example, bankruptcy proceedings against an advocate will make it necessary to deal with the issues of proper protection of data involving not only him but also his clients in case the advocate is be allowed to keep practising law.

It is rightly noted in the case-law of Lithuanian courts that decisions in the matters related to the bankruptcy of natural persons do not invoke, by analogy, the provisions of the Enterprise Bankruptcy Law because the general rule is that the legislative provisions laying down exceptions cannot

be applied by analogy. The chamber of judges of the court of cassation has pointed out that the provisions of both the Enterprise Bankruptcy Law and the Enterprise Restructuring Law are special norms regulating bankruptcy and restructuring procedures of legal entities (Article 1(1) of the Enterprise Bankruptcy Law, Article 1(1) of the Enterprise Restructuring Law), therefore, the provisions of these laws cannot be applied by analogy to the matters related to the bankruptcy of natural persons (ruling of the Supreme Court of Lithuania in the civil case No. 3K-3-39/2013). On the other hand, the courts are not prohibited from using the interpretations on the application of law given in procedural decisions of courts – they can be invoked not as case-law but as another source of law without reference to specific procedural decisions.

### **Conclusions**

1. The (partial) debt relief procedure applicable to debtors is, in principle, more linked not with bankruptcy as such and condemnation of debtors but with their rehabilitation and the so-called “fresh start” which is based on the inherent right of each individual to dignity.

2. Bankruptcy proceedings of natural persons should be regulated so as to be accessible and effective only to good-faith persons and not to occur again in several years; it should also make it possible to ascertain the true causes which compelled the person to go bankrupt. From the perspective of legal regulation, bankruptcy proceedings are most effective when, during identification of the causes of bankruptcy and in the course of bankruptcy proceedings, much emphasis is placed on determining the person's good faith without disregarding, at the same time, the drawing up of the payment plan and proper supervision over its implementation. In such a case, reasonable alignment is required of rehabilitation models focusing on the debtor's good faith as well as on the payment plan and its performance. These models are also in place in the Lithuanian law of bankruptcy of natural persons.

3. The relatively late legitimisation of the bankruptcy of natural persons in Lithuania has been predetermined by objective reasons: such bankruptcies are usually legitimised after economic crises in the states; besides, there is a legal act directly applicable to bankruptcy proceedings of natural persons, which has been in force on the level of the European Union more than ten years.

### **References:**

Astromskis, P., Gruodytė, E.; Kiršienė, J. Fizinio asmens bankroto problema: teisiniai aspektai“. (The Problem of Bankruptcy of Natural Persons: Legal Aspects). In *Jurisprudencija*. 2010, 3(121).

Lietuvos Respublikos įmonių bankroto įstatymas ( The Lithuanian Law on Enterprise Bankruptcy), *Official Gazette Valstybės žinios*. 2001, No. 31-1010.

Fizinių asmenų bankroto įstatymas (The Lithuanian Law on the Bankruptcy of Natural Persons), *Official Gazette Valstybės žinios*. 2012, No. 57-2823.

Ruling of the Supreme Court of Lithuania of 22 Februar 2013 in the civil case No. 3K-3-39/2013.

Civil Procedure Code, of February 28, 2002, Law No. IX-743.

Kavalnė Salvija, Mikuckienė Vilija, Norkus Rimvydas, Velička Rimvydas. *Insolvency Law*. 1<sup>st</sup>. book. Vilnius: Justitia, 2009.

Kiesilainen, N. J.; Henrikon, A. S. *Report on Legal Solution to Debt Problems in Credit Societies*. Council of Europe, Strasbourg, 2005.

The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly on 10 December 1948.

The Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4.XI.1950

Council regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings, Official Journal L 160 , 30/06/2000 P. 0001 – 0018.

Resolution No. 1, Council of Europe, on seeking Legal Solutions to Debt Problems in a Credit Society, MJU-26 (2005) Resol.1 Final.

Gruodytė, E.; Kiršienė, J. Application of „Fresh start“ Doctrine for Individual Debtors in Lithuania: EU and US perspective“. *In Engineering Economics*. 2010, 21(2). P. 263–273.