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**Bankruptcy in Slovakia: international comparison of the creditor's position**

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**Abstract**

**Research background:** Bankruptcy shouldn't be considered only as negative phenomena although its impact is for companies in most cases more than devastating. This change of point of view is invoked by the needs of contemporary socio-economic evolution. If society wants to reach sustainable development, the bankruptcy should be perceived as an immanent part of normal cyclical economic development. Moreover, if the view of bankruptcy is changed in a positive way, it can be a stimulus for innovations, investment and global welfare. But it is not possible without an increase in the effectiveness of national and international bankruptcy law.

**Purpose of the article:** The goal of this study is to analyse the position of a creditor in the case of a debtor's bankruptcy on the basis of comparative law in the Slovak Republic de lege ferenda. It is because we assume that continuous attention should be given to the issue

of the creditor's position with regard to a debtor's bankruptcy to achieve sustainable economic development.

**Methods:** The potential consideration de lege ferenda should be based not only on performed legal analysis, but also on performed economic analysis. So, selected countries have been evaluated according to specific economic and legal indicators. We used the interdisciplinary approach based on selection analysis and legal comparative analysis applied to international comparison of the status of creditor and the effectiveness of bankruptcy law from his point of view.

**Findings & Value added:** The applied approach has led us to the detection of the most important insolvency laws, specifically the insolvency laws of the United States and Austria. These legislations were further applied in the context of consideration de lege ferenda over the position of a creditor in the case of a debtor's bankruptcy in the Slovak Republic.

## Introduction

Bankruptcy is one of the most important externalities of current modern economics, and even with maximum effort, it can be impossible to avoid. Anywhere that investment opportunities exist, there are companies that are willing to assume the financial liabilities and the resulting risks of bankruptcy to keep and develop their own economic activities. To achieve good and healthy functioning of the market, the economy should be the main priority of the insolvency law, which is an effective solution of an unfavourable situation of the debtor in bankruptcy, and it also guarantees to treat the creditor's claims to the greatest extent. According to Barbulescu *et al.* (2015, pp. 591–601), as long as this task is fulfilled, the ending of the business through the liquidation process, which is the most used institute of the insolvency law, can be fully compatible with the growth of the gross domestic product and can maintain the dynamic of the national economy, as well as the process of the creative destructions in which the companies without a stable competitive advantage leave the market and are replaced by companies new to the market.

Therefore, countries should constantly confront the indicators of the effectiveness of their insolvency laws and the dynamic of the national economy, not only on a national basis but also on an international law basis. However, for any consideration de lege ferenda processed on the basis of relevant background, it is primarily essential to detect such laws that are capable of these considerations. The rash acceptance of foreign standards without the acceptance of wider platforms of their implementation does not lead to the desirable results (i.e., the acceleration of economic development), but instead this acceptance can cause investment stagnation by decreasing the legal certainty of the participants of business relations. The key parameters for assessing the optimality of the insolvency laws for the appli-

cation of legal comparison in the context de lege ferenda are as follows: the quality of the insolvency laws, the speed of the proceedings, the rate of return of the claims and the extent of the creditor's competencies.

Claessens and Klapper (2005, pp. 253–283) state that if creditors are not protected or are not allowed to participate in insolvency proceedings, they will have less incentive to lend in the future. That leads to a less developed credit market. The global economic crisis in 2007 stopped the development of the theoretical concept of immediate dependency of economic development from the position and the extent of the creditor's competencies, so the theoretical concepts of the relation between the insolvency law and the economic development of the country have become conceptually different. (Gantman & Dabós, 2013, pp. 893–896). From our point of view, these concepts can be emerging ideologically supporting approaches divided into two main groups, specifically:

- Indirect dependency — Authors do directly link the economic development and the creditor's competencies, but they follow the individual impacts of the creditor's competencies on the individual indicators, representing the economic development. According to Das *et al.* (2007, pp. 93–117), the most common indicator is the rate of return of claims in liquidation proceedings, which has an explanatory power in relation to the prediction of the phenomena of secondary insolvency.
- Direct modified dependency — Authors follow the theoretical concept from the period before the global economic crisis; however, they use the total quality of the insolvency law as a factor of economic development (A partial indicator of the total quality of the insolvency law is also the extent of the creditor's competencies).

Eng (2010, pp. 23–39) and LeBlanc (2010, pp. 40–52) are representatives of the conception of indirect dependency. They have independently opened the post-crisis debate regarding the relation between the rate of return of claims in liquidation proceedings and the extent of the competencies of the individual subjects involved in the liquidation proceedings.

Within the concept of so-called direct modified dependency, more and more authors have started to apply a multifactorial approach. The main representative of this approach is Cepec (2014, pp. 765–790) who, using the example of Slovenia, states that there is dependency between the quality of the insolvency law on the one hand, and the economic system of the country, the dynamic of the economic development and the public attitudes to the subjects in bankruptcy on the other.

Within the economic development of countries, Cepec (2014, pp. 765–790) suggests the perspectives of the creditor's "force" profiling as an individual indicator with the relevant information value in relation to the quali-

ty of the insolvency law in the context of the requirements of legal and economic practice. He considers that the growth of the creditor's competencies leads to the higher probability of the return of claims, which acts as an investment accelerator within the given national economy.

Paulus et al. (2015, pp. 1–27) later demonstrated that, similar to the example in Greece, a strong positive correlation exists between the quality of the insolvency law and the total quality of the economy of a given country.

In the addition to these modified theories, some authors still tend to the first, before-crisis concept of dependency between the extent of the creditor's competencies and the dynamics of the economic development of the country. The need to expand the creditor's competencies in the liquidation proceedings results also from the research of Funchal (2008, pp. 84–86) in Brazil. According to Funchal, the complex uniform reinforcement of the creditor's competencies reduces the cost of the debt and increases the amount borrowed by firms. Similarly, Richter (2013, pp. 591–612) thinks about the position and the competencies of creditors, but he applies the approach based on the modelling of the impacts on the final effectiveness of the liquidation proceedings based on the strengthening of the competencies through individual creditor groups. This is not a unique approach to the presented issue, which is conceptually based on the need to eliminate the application of the uniform absolutistic approach. This approach is based on the assumption that the flat strengthening of the competencies of creditors strongly and positively correlates with a country's economic development.

Lately, this approach has been profiled the so-called theory of the contractual basis of the insolvency law, which has a large number of opponents. The most significant opponent is Goldenberg Serrano (2013, pp. 9–49), despite the fact that this author calls for encouraging agreements, as a paradigm of party autonomy, through lower transaction costs and the treatment of information asymmetries. He emphasises the dominant position of the court and the maintenance of the character of specific proceedings as one of the pillars of the legal certainty of the proceeding's participants. Similarly, Claessens and Klapper (2005, pp. 253–283) do not consider the uniform absolutistic approach as proper, and they argue that secured creditors must be protected or granted priority under the law, or they will have less incentive to lend in the future, leading to a less developed credit market.

From our point of view and based on the above-mentioned data, it is appropriate to apply a regional approach for the research of the issue of the relation between the insolvency law (or more precisely its partial issues) and economic development (eventually possible further factors of the sustainable development).

Several authors pay attention to the instantiated issue of the evolution and the effectiveness of the insolvency law in the context of transitional economies of the former Eastern European block. Richter (2011, pp. 245–254) suggests, in the context of the Czech and the Slovak law, the need for a reassessment of the position of an individual subject involved in the liquidation to maximise the acquisition of the insolvency law in relation with the cultivations of the economic environment of the analysed countries.

Later, Georgescua and Baciub (2014, pp. 784–791) analysed the dependency between the extent of the competencies of the court and the effectiveness of the proceeding, while they state in their work the indirect dependency between the monitored phenomena (i.e., the higher the competencies of the court, the less effective the liquidation).

Therefore, with the use of a contrary statement, the lower the competencies of the court, the more effective the liquidation. However, in this case, it is not possible to clearly state that this should happen in the synallagmatic strengthening of the creditor's competencies. Thus, in the context of the monitored region and its specifics, there is an absence of a comprehensive theoretical approach dedicated to the presented issue. (Chapsa & Katraklidis, 2014, pp. 4025–4040; Omar, 2014, pp. 201–220; Hong *et al.*, 2016, pp. 5379–5395; Lipson & Marotta, 2016, pp. 1–58; Rodano *et al.*, 2016, pp. 363–382).

So the goal of this study is to analyse the position of a creditor in the case of a debtor's bankruptcy on the basis of comparative law in the Slovak Republic *de lege ferenda*. It is because we assume that continuous attention should be given to the issue of the creditor's position in regards to a debtor's bankruptcy to achieve sustainable economic development.

To fulfil this goal, we applied interdisciplinary approach based on selection analysis and legal comparative analysis applied on international comparison of the status of creditor and the effectiveness of bankruptcy law from his point of view.

## **Research methodology**

The analysis of the position of the creditor in the liquidation proceeding realised in the presented contribution was performed by using methods of a selection analysis and comparative law analysis.

The countries that were assessed from the perspective of their suitability for the formulation of the considerations *de lege ferenda* in relation to the Slovak legislation of the creditor's competencies in the liquidation proceeding were chosen as:

- countries with the highest index of strength of insolvency framework (Greece, USA, Uruguay, Qatar, Puerto Rico, France, Kuwait),
- countries in the neighbourhood of the Slovak Republic (Poland, Ukraine, Hungary, Austria, Czech Republic) and
- countries with the paradigmatic legislation in the process of the creation of the insolvency normative legislation (Germany).

Table 1 presents the processed selection analysis with regard to the individually judged indicators.

The results of the gross selection analysis of the 1st stage led to the exclusion of Poland (16/6), Ukraine (16/8.5) and Hungary (16/9), as these were the countries with the lowest index of strength of the insolvency framework.

Within the gross selection analysis of the 2nd stage, we reviewed the selected countries according to the average duration of the insolvency proceeding in years. Based on the criteria, we excluded Qatar (2.5 years), Puerto Rico (2 years) and Germany (1.9 years).

As is shown in Table 1, Uruguay, Kuwait and the Czech Republic were excluded from the next stage of the analysis. The reason was that these countries had the lowest average recovery rate in cents on the dollar.

To select the two most effective insolvency frameworks, we applied an additional selection criterion, which is the number of novelisations of the insolvency law during the monitored period (Greece 2, USA 1, France 2 and Austria 1). We look to the findings of Dau-Schmidt (2001, pp. 8452–8457), who demonstrated the inverse relationship between the number of novelisations of the insolvency law and the acceleration of the economic development, so the higher the periodicity of novelisations of the insolvency laws, the lower the willingness for the investment and the development of individual business activities.

This can be substantiated by the decrease of the legal certainty of subjects in business relations. Based on this information, the United States and Austria are the most suitable countries for the formulation of considerations *de lege ferenda* in the context of the Slovak legislation concerning the position of the creditor in bankruptcy.

## **Results and discussion**

Table 2 summarises the main characteristics of the insolvency laws of the Slovak Republic, the United States and Austria.

The conception of the formulation of considerations *de lege ferenda* is modified according to the structure of realised comparison of the position of the bankruptcy's creditor based on the platform *doingbusiness.com*, which publishes its results of the evaluation of the economic environment under the patronage of the World Bank. Therefore, we examined the position of the creditor on the following four basic levels:

- creditor and proposal for a declaration of a bankruptcy,
- creditor and submission of claims,
- creditor and creditor's institutions and
- creditor and treatment of claims.

The proposal of these levels is in accordance with the highly cited research results of Sutton and Callahan (1987, pp. 405–436), Klausner (1995, pp. 757–852), Bebchuk and Fried (1996, pp. 857), Bolton and Scharfstein (1996, pp. 1–25).

### **Creditor and proposal for a declaration of bankruptcy**

According to the Slovak legislation, both the creditor and the debtor have the authorisation to submit the proposal for a declaration of bankruptcy. In addition to the debtor and the creditor, other subjects, which are explicitly defined in the law, have this disposal power; however, in practice, they use this power only slightly. Internationally, it is a standard construction of active legitimations of subjects. Regarding the proposal for a declaration of bankruptcy, we pay attention to the unusual adjustment of the proposer's disposal power. The possibility to dispose the proposal for a declaration of bankruptcy in the meaning of its withdrawal is given to him only until the decision of the court about liquidation. In this case, the proposer would take the proposal back to the beginning phase of the liquidation proceeding until the final liquidation, then all of the participants of the liquidation proceeding have to give their approval. After the final phase of the liquidation, there is no way to take back this proposal once all of the participants have approved of it, because the liquidation affects all of the creditors who have the power to enter the liquidation process to exercise their rights. So this is a specifically modified concept of the reinforcement of the legal certainty of the involved subjects (analogically also creditors) at the expense of the weakening competencies of the subject who proposed it. The creditor is not always this subject, so we cannot categorically state that this would be a legislation-oriented *a priori* against creditors.

A differentiated approach to the possibilities of creditors to propose a declaration of bankruptcy is not rare in foreign law. In the United States,

the creditor can propose only the declaration for bankruptcy of the debtor who does not meet his no-doubt liabilities (i.e., he is illiquid). While the condition about the plurality of the creditors (minimum three) must be fulfilled, as well as the minimum amount of the debt (the minimum amount of unsecured liabilities is 14,425 USD). On the other hand, if the debtor is insolvent, the creditor cannot propose a declaration for bankruptcy; in this case, only the debtor can propose it. At the same time in the United States, the creditor can propose a declaration for bankruptcy only in the case of involuntary bankruptcy. In this case, the logic of the law construction is clear. The main task of this treatment is to avoid so-called victimise proposals. The Slovak legislation adjusts the responsibility of the creditor for the damage caused in connection with the certification of the ability to pay. This legislation was constructed as a reaction to the need for the elimination of so-called victimise proposals by creditors.

In Austria, in contrast with the United States, the creditor's possibilities to propose for a declaration of bankruptcy are not limited, according to the specific circumstances and forms of the bankruptcy. So similarly, the Slovak legislation and the Austrian legislation identify two basic forms of bankruptcy, illiquidity and insolvency.

Based on this information, the legislation of Austria and the Slovak Republic is comparable to the requirements of the proposal for a declaration of bankruptcy by the creditor. In the case of Austria legislation, if the proposal for a declaration of bankruptcy given by the creditor is valid, he is also required to justify it with evidence about the debtor's insolvency and about the existence of a claim against him. On the other hand, the legislation does not require that the claims of the creditor against the debtor should be payable at the time of the proposal for a declaration of bankruptcy. Subsequently, the court must investigate whether or not the conditions for starting the proceeding are met. Subsequently, the uniform insolvency proceeding starts if the court concludes that the debtor is really bankrupt (does not matter if it is illiquidity or insolvency). In the Slovak Republic, the creditor's proposal for a declaration of bankruptcy must contain the following various specific requisites in addition to general requirements.

### **Submission of creditor's claims**

If the proposal for a declaration of bankruptcy contains all of the legally required formalities, then the Slovak court has to decide within 15 days from the beginning date of the liquidation proceeding which *ex lege* begins at the date of the publication of these resolutions in the commercial journal.



If the proposal does not contain all of the required formalities, the court will call the proposer to eliminate the shortcomings within 10 days. If these shortcomings are not eliminated, the court will refuse the proposal. In this legislation, we can see a significant shift in comparison to the previous legislation, when the proposal was refused without the chance for proposer's correction. This was in clear contrast with the highly proclaimed creditor's conception of the legislation.

From a formal point of view, the court examines whether or not a proposal is made perfectly and whether or not the person who presented it has an active factual legitimation. From the substantive point of view, the existence of a debtor's insolvency, the plurality of the creditors, as well as the debtor's assets, are examined.

The *de jure* period for the submission of claims is 45 days, while the law also allows for a delay. However, in the case of a delay, the creditor cannot use his voting right and other rights related with the late submission of the claim. This is a significant difference in comparison with the previous legislation, within which the deadline for the submission of claims has a peremptory character. This main change has led to the inclusion of the Slovak insolvency law between the countries, where the insolvency law is based on the conception of the non-peremptory character of the *de jure* period for claim submissions, but on the other hand, the delay is validated.

From our point of view, these approaches to validate the late submission of claims are inappropriate for application in the Slovak insolvency law, given that the legislation enacts the principle of equal handling with the creditors. This principle states that the creditors with equal rights have an equal position in resolving the debtor's financial difficulties, and the favouritism of certain creditors is unacceptable. Therefore, based on the above information, we consider the application of the Austrian model as a perspective. In Austria, if the creditor does not meet a deadline for a claim submission, he will pay 60 euro as a sanction; however, this sanction does not affect the scope of the creditor's competences and the way of their application in the proceeding.

The Austrian legislation differs in the context of the issue of claims submission from the Slovak legislation within the period for the submission of claims. It is valid that the *de jure* period for the submission is set by the court individually on the basis of pre-established facts. However, we think that this structure of the insolvency law reduces the legal certainty of the proceeding's participants. In the United States, all of the existing creditors automatically become participants of the insolvency proceeding *ex lege* with its beginning. From our point of view, this structure of the insolvency law is appropriate for the application in the Slovak insolvency law in terms

of ideological supporting principles of the equal handling. Despite this fact, it is necessary not to understand various legislations separately and not to abstract from other facts, influences and factors leading to the current form of the legislation. Therefore, we think that, in spite of the practical and creditor-oriented conception, it is not applicable in the current Slovak Republic as an immanent part of the coherent legislation.

In the Slovak Republic, individually submitted claims are continuously entered by the insolvency representative into the list of claims, while each registered claim is expertly compared by the insolvency representative with the list of liabilities, the accounting and other documentation of the bankrupt subject. (The bankrupt subject is obligated to submit this list within 15 days from the beginning of the insolvency proceeding.) The claims that are disputed are subsequently denied within a 30-day period. (The Slovak legislation has again established the possibility to deny the claim by the creditor, which follows the tendency to the proclaimed creditor's orientation of the legislation.) At the same time, the law adjusts the objective responsibility of actively authorised persons (i.e., the creditor and the administrator) for the damage of the creditor caused by the negation of his claim.

The negation of claim is allowed also by the legislation in the United States and Austria. These legislations are comparable.

### **Creditor and creditors' authorities**

The specifics of resolving bankruptcy of a debtor in the legislation is in general that while in other types of proceedings individual participants carry out their procedural rights by themselves (or through their administrators) in the insolvency proceeding is the exercise of certain rights individually not usually possible. This is the reason why in the Slovak Republic, similar to other legislations, the so-called creditors' authorities are established. These are usually creditor meetings and creditor committees.

The first creditor meeting is called by the insolvency administrator within 40 days from the beginning of the liquidation proceeding to take place no earlier than the first day and no later than the fifth day after the deadline for the negation of claims. The next creditor meeting is called by the insolvency administrator on the basis of his own initiative or on the request of the court, creditor committee or one or more creditors whose voting rights represent more than 10% of all of the voting rights. The request to call the creditor meeting must contain an exact specification of the subject of the discussion of the creditor meeting. Otherwise, the request is rejected.

The creditor committee as the second part of the creditors' authorities consists of three or five members. The first members of the creditor committee are elected at the first creditor meeting. If the first creditor meeting is not quorate or the creditors do not elect the creditor committee, the force of it is performed by the court until the duly consent of this creditors' authority. The right to elect and to call off members of creditor committee, including the right to be elected into the creditor committee, has each creditor of unsecured claims. This right is also possessed by a secured creditor, but in the extent to which his secured claim probably will not be satisfied from the separate substance.

Similar to Slovakia, Austria holds creditor meetings and the so-called creditor commission.

The extent of the competencies of the Austrian creditor meeting is wider than in the case of the Slovak legislation. Therefore, we can talk about modified individual participation of individual creditors in the proceeding, because the creditor meeting as a collective organ of creditors provides to the court or to the administrator obligatory opinions on the predefined range of topics. The first creditor meeting is called by the administrator within 60–90 days after the declaration of the bankruptcy, and its main goal, which is similar to Slovakia, while participating in the process of denying of claims, is to vote members of the so-called creditor commission.

The situation in the United States is paradoxically different, despite the proclaimed creditor's orientation of the legislation. The position of the creditors' authorities is in the context of chapter 7, which adjusts bankruptcy as a way to solve the bankruptcy of the debtor, the weakest one from compared legislations. The creditor meeting and creditor commission have a de facto formal character, and the administrator has the most of the competencies without the prior need of the adjustment by creditors' authorities. The creditor meeting represents the plenum of creditors, like in Slovakia and Austria. The creditor commission is formed by 3–11 members, who are representatives of creditors with the highest claims. They are not voted by the creditor meeting, but they are appointed by the administrator. Therefore, this is the least democratic way of the creation of this authority within compared legislations, but we do not give much attention to this, according to the minimalistic concept of competencies.

### **Creditor and treatment of claims**

In the Slovak Republic, the administrator does not have an autonomy position within the management and the conversion of asset, but he is bound by

mandatory instructions and recommendations of appropriate authorities. (This is the creditor committee in the case of the asset of general substance; in the case of the asset of separate substance, it is the secured creditor, whose claim is secured by this asset.) The process of the conversion of assets then passes off by one of the legally defined ways observed with the fundamentals of the conversion, which are the axiom of the minimisation of costs of management and conversion of assets, the maximisation of the output and quickness of the conversion.

Individually submitted claims are treated by the administrator on the basis of the schedule, which is approved of by the appropriate authority. In the case that this schedule is not approved of within the period set by the administrator, the administrator presents the schedule to the court without postponement. The court decides about its approval or its return for the reformation and repeated presentation to the court for approval.

Claims of secured creditors are treated from the output acquired by the conversion of the asset of relevant separate substance. If the output gained by the conversion of the asset of separate substance does not fully match the treatment, the remaining range of this secured claim will be treated the same as the unsecured claim (i.e., from the output acquired by the conversion of the asset of general substance). (The converted asset of general substance is after the reduction by claims against general substance divided between individual creditors relatively according to the relative amount of submitted claims.)

In the foreign legislations, the treatment of claims of unsecured creditors usually dominates the principle of their treatment within the strict categorisation of claims into the predefined groups. A typical example of this approach is the Austrian legislation, where the treatment of the creditors' claims is based on the categorisation of the submitted claims into four legally defined groups according to their legal basis.

The treatment of the claims of creditors in the United States is realised according to their character. In Slovakia and Austria, secured claims are treated from the conversion of the asset through which those secured and unsecured claims are treated from other assets according to the priority.

## **Conclusions**

The existing research of the insolvency law in the context of the sustainable social development has shown that there is a correlation between the quality of the insolvency law and the dynamic of the economic development of the society. Based on the application of described principles and the use of

the method of the selection analysis, we have detected the United States and Austria as the countries with the optimal state of the quality of the insolvency law with the accent on the aspect of the position of the creditor in the liquidation proceeding. Legislation in these countries was subsequently used in the application of the method of comparative law as a platform for the formulation of considerations *de lege ferenda* over the current position of the creditor in the Slovak legislation. The main reason for selecting the perspective countries for the comparison was the fact that we considered the thoughtless acceptance of the models from foreign legislations in terms of efforts to achieve the sustainable economic development as counterproductive. The main problem is that such novelisations often do not lead to the achievement of the required results. However, because of the need of their repeated novelisation in the short term, they decrease the legal certainty of the participants of commercial and contractual relationships, which leads to the absorption of investment activities. Based on the application of this principle, we have defined the issue of the proposal for a declaration of bankruptcy, the submission of claims, the creation and competences of the creditors' authorities and the treatment of claims as the main areas for discussion *de lege ferenda*. We have discovered that compared legislations are convergent in each investigated area. Substantial divergences of these legislations were detected as follows: the proven position of the creditor in the context of the proposal for a declaration of bankruptcy, sanctions for the late submission of claims, the way of the creation of the creditor committee and the conception of priorities for the treatment of submitted claims through defined groups.

We note that it is also necessary to take into account the phenomenon of socio-cultural diversity of the national profiles of each of the compared countries. The reason is that it is not always true that the application of verified foreign models brings the same positive effect when the same economic and legal starting aspects exist. A possible explanation of this situation is the lack of sociological aspects of the relationship between creditors and debtors, and between these subjects and executive entities in the bankruptcy proceedings.

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## Annex

**Table 1.** Selection analysis of 3 stages, where countries excluded in each stage are signed by “E” (excluded in short)

Country	Gross selection analysis of the 1st stage		Gross selection analysis of the 2nd stage		Soft selection analysis			
	Strength of insolvency framework index (0-16) in 2016		Average duration of the insolvency proceeding in 2016		Average recovery rate in cents on the dollar in 2016		Creditor participation index in the liquidation proceeding in 2016	
	before	after	before	after	before	after	before	after
Greece	15	15	1.2	1.2	83.7	83.7	3	<i>E</i>
<b>USA</b>	<b>15</b>	<b>15</b>	<b>1</b>	<b>1</b>	<b>88.6</b>	<b>88.6</b>	<b>2</b>	<b>2</b>
Uruguay	15	15	1.5	1,5	78.6	<i>E</i>	<i>E</i>	<i>E</i>
Qatar	15	15	2.5	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>
Puerto Rico	14.5	14.5	2	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>
France	14.5	14.5	0.9	0,9	90.1	90.1	3	<i>E</i>
Kuwait	14.5	14.5	1.5	1,5	83.6	<i>E</i>	<i>E</i>	<i>E</i>
Poland	6	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>
Ukraine	8.5	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>
Hungary	9	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>
Germany	11	11	1.9	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>	<i>E</i>
<b>Austria</b>	<b>12</b>	<b>12</b>	<b>1</b>	<b>1</b>	<b>82.1</b>	<b>82.1</b>	<b>3</b>	<b>3</b>
Czech Republic	13	13	1.5	1,5	71.4	<i>E</i>	<i>E</i>	<i>E</i>

Source: Self-processed according to <http://www.doingbusiness.org/>.



**Table 2.** Comparison of selected aspects of the insolvency law in Slovakia, the United States and Austria

	Slovak Republic	United States	Austria
<b>Commencement of proceedings</b>			
What procedures are available to a debtor when commencing insolvency proceedings?	Debtor may file for both liquidation and reorganisation.	Debtor may file for both liquidation and reorganisation.	Debtor may file for both liquidation and reorganisation.
Does the insolvency framework allow a creditor to file for insolvency of the debtor?	Yes, a creditor may file for both liquidation and reorganisation.	Yes, a creditor may file for both liquidation and reorganisation.	Yes, but a creditor may file for liquidation only.
What basis for commencement of the insolvency proceedings is allowed under the insolvency framework?	Both options are available, but only one of them needs to be compiled with.	Debtor is generally unable to pay its debts as they mature.	Both options are available, but only one of them needs to be compiled with.
<b>Management of debtor's assets</b>			
Does the insolvency framework allow the continuation of contracts supplying essential goods and services to the debtor?	Yes	Yes	Yes
Does the insolvency framework allow the rejection by the debtor of overly burdensome contracts?	Yes	Yes	Yes
Does the insolvency framework allow avoidance of preferential transactions?	Yes	Yes	Yes
Does the insolvency framework allow avoidance of undervalued transactions?	Yes	Yes	Yes
Does the insolvency framework provide for the possibility of the debtor obtaining credit after commencement of insolvency proceedings?	No	Yes	Yes
Does the insolvency framework assign priority to post-commencement credit?	No, priority is assigned to post-commencement creditors.	Yes, over ordinary unsecured creditors, but not over secured creditors.	Yes, over all pre-commencement creditors, secured or unsecured.
<b>Creditor participation</b>			
Does the insolvency framework require approval by the creditors for selection or appointment of the insolvency representative?	Yes	Yes	No
Does the insolvency framework require approval by the creditors for sale of substantial assets of the debtor?	Yes	No	Yes
Does the insolvency framework provide that a creditor has the right to request information from the insolvency representative?	No	Yes	No
Does the insolvency framework provide that a creditor has the right to object to decisions accepting or rejecting creditors' claims?	Yes	Yes	Yes

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