

## The court system of Latvia: a friend or foe of business?

### Major challenges for investors in Latvia and what can be done to improve the situation

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# Investment climate

# Pros and Cons of Investment climate

- Pros:

- Natural and labor resources, geographical position
- Sound and stable political, economical, legal and regulatory environment
- Good governance, transparency, predictability

- Cons:

- Cost (taxes, fines, corruption, added need for consultants)
- Delay (slow, lengthy and bureaucratic administrative and court procedures)
- Risk (political instability, frequent legislative changes)

# The investment climate is directly dependent on the efficiency of judicial system

What the court system is supposed to provide for business:

- Fairness
- Transparency
- Predictability
- Timely resolution of disputes
- Understanding of business key principles

Efficient Court system-  
cornerstone for  
positive investment  
climate

# Identified problems of Latvian court system

- Lengthy and inefficient civil proceedings
- Diverse, inconsistent and unpredictable application of law
- Inexperience of judges in commercial matters (necessity for specialized commercial courts)
- Excessive number of arbitration courts (206)
- Abuse of insolvency proceedings

# Problems of insolvency system

- Abuse of law by administrators
- Unpredictable application of law
- Lack of understanding of business and insolvency issues.

## ***Palink case: coincidence or trend?***

Palink case reveals typical problems of insolvency proceedings:

- Lengthy proceedings for debt enforcement → insolvency petition as a motivating tool for payment
- Diverse competence level of judges in relation to insolvency issues
- The judiciary and administrators does not prevent abuse of the law. Particular (well known) groups actively demonstrate aggressive interpretation and application of law.

# Insolvency administrators

- Insolvency proceedings is supposed to be conducted in timely, professional and impartial manner to the greater benefit for creditors.
- In reality insolvency proceedings are unpredictable because in dozens of cases :
  - Insolvency administrators act in interests of debtor or particular stakeholders
  - Serious delays in recovering and disposal of assets
  - Diverse interpretation and application of laws (insolvency, general civil and tax laws) by administrator

# Proposals for improvement or Latvian court system

# Civil proceedings

- Re-launching special procedures for undisputed claims
- Written civil proceedings if both parties agree
- Establishment of special commercial courts or chambers within existing courts
- Revising system of state fees (increasing fees for large disputes)
- Electronic movement of documents

# Arbitration proceedings

- Decreasing number of arbitration courts. Strict rules for establishment and composition of arbitration courts (license fee and/or particular number or status (e.g. professional association) of founders)
- Increasing liability of arbitration courts and arbitrators

# Insolvency proceedings

- Incorporation of administrators into the court system – status of state official
- Increasing liability for misconduct of persons involved in insolvency proceedings



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