



Insolvency
Control Service
Republic of Latvia

2023

ANNUAL REPORT

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TERMS USED

Administrator - Insolvency administrator

Directive on restructuring and insolvency - Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132

EMUS - Electronic insolvency accounting system

FATF - Financial action task force

ICS - Internal Control System

IAIR - The International Association of Insolvency Regulators

Insolvency Register - The insolvency register kept by the Register of Insolvency of the Republic of Latvia

Moneyval - Council of Europe Money Laundering and Terrorism Committee of Experts on the Evaluation of Anti-Money Laundering and Anti-Terrorist Financing Measures

Prevention Law - Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing

Sanction Law - Law on International Sanctions and National Sanctions of the Republic of Latvia

LPP - Legal protection proceedings

OLPP - Out-of-court legal protection proceedings

Supervisory person - Supervisory person of legal protection proceedings

CIS - Court Information System

Guarantee Fund - Employees' claims guarantee fund

INTRODUCTORY WORDS

The monitoring indicators of the Insolvency Control Service show that the profession currently has professional and motivated administrators. I am pleased that the Insolvency Control Service is increasingly rarely confronted with cases where administrators have deliberately committed significant breaches of the regulatory enactments. Meanwhile, the number of complaints about the performance of administrators and supervisory persons has decreased by 57% since 2017, and the number of admitted breaches - by 86%. However, despite the significant reduction in the number of complaints about the administrator's performance, in 2023 we found that three administrators abused their powers when handling the debtor's funds entrusted to them. Three criminal proceedings were opened last year.

Therefore, I would like to continue to emphasize risk-based monitoring as an essential tool to prevent and reduce violations.

The Insolvency Control Service's activities are always based on strategic planning and transparency. Therefore, to ensure a targeted monitoring function at strategic level and to promote transparency in the institution's activities and the efficient and effective use of resources, we have developed a Monitoring Strategy 2024 - 2025 in which we have defined the monitoring objective and set out the priorities, monitoring directions and applicable measures for this period. To promote transparency and uniform practice in the insolvency application of the insolvency rules, the Insolvency Control Service will start making its decisions public in 2024.

Latvia's success in digitalization the insolvency sector has been recognised internationally for several years. EMUS serves as a model of how to move from Excel spreadsheets to a modern information system that has become an indispensable tool for both administrators in carrying out their duties and for the Insolvency Control Service in carrying out effective and risk-based supervision. Latvia's insolvency digitalization story was also highly appreciated at the 2023 IAIR International Conference in Belgrade.

The Insolvency Service team works continuously to promote the efficiency of the insolvency sector and the accessibility of its services, thus contributing to the improvement of the business environment. The team's efforts have also resulted in improved insolvency performance indicators, such as increased recoverability rates and reduced insolvency costs. In addition, by reviewing the claims process for insolvent employers, we have accelerated the process by 60% in 2023 compared to 2021. This way, employees who lost their jobs due to their employer's insolvency recover their funds on average within 19 days of filing their claim.

Together with the Ministry of Justice, we have put the issue of access to insolvency proceedings high on the agenda of the insolvency sector. Financially and administratively accessible insolvency procedures are the key to ensuring that citizens and businesses resolve their financial difficulties in a timely manner. We need to reduce the number of companies that are emptied of their assets in insolvency proceedings to improve both the return to creditors from insolvency proceedings and the business environment as a whole.



INESE STEINA

Director of the Insolvency
Control Service

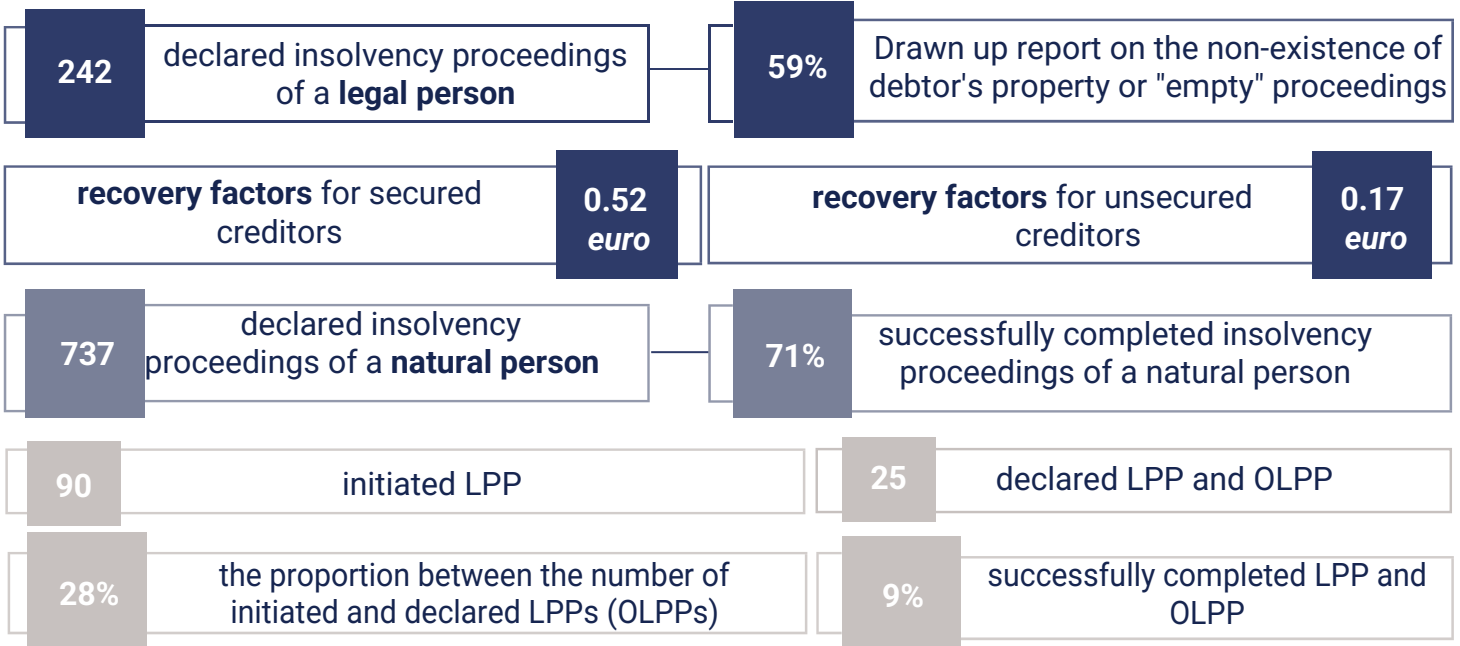
Insolvency Control Service - a professional and innovative supervisory authority that protects the public interest in the field of insolvency.

2023 IN FIGURES



INSOLVENCY PERFORMANCE INDICATORS

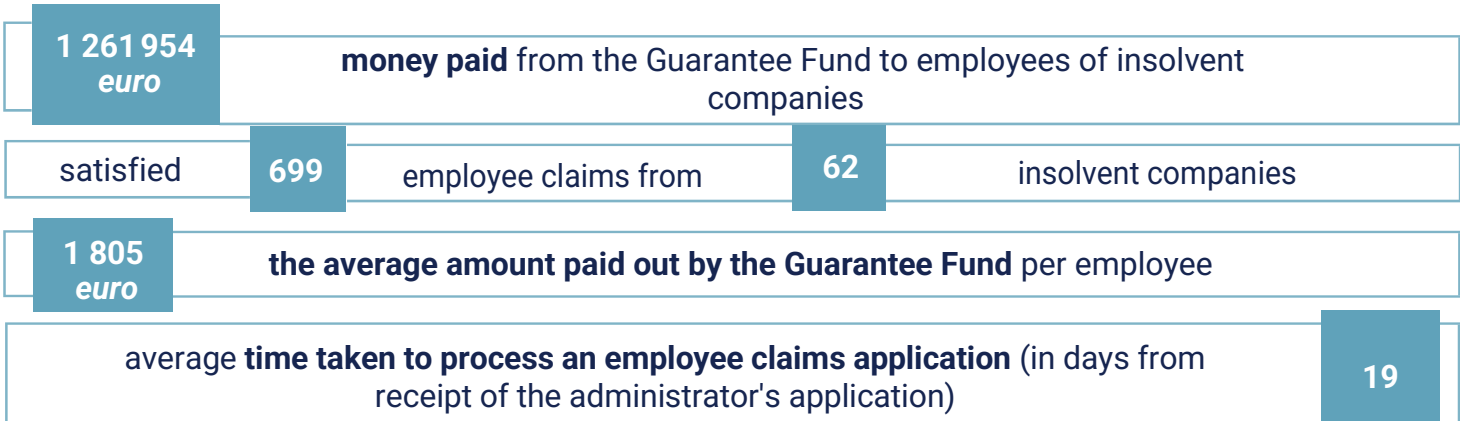
The Insolvency Control Service supervises 2326 insolvency proceedings



Major legal person insolvency proceedings closed in 2023

SIA "EKOAGRO"	in terms of creditors' claims recognised	19.1 million euro
	in terms of recovered property	6.9 million euro
AS "Dzintars"	in terms of the costs of insolvency proceedings	2.0 million euro
	in terms of the remuneration of the administrator	0.3 million euro

EMPLOYEE PROTECTION



Insolvency Control Service 2023 IN FIGURES

ELECTRONIC INSOLVENCY ACCOUNTING SYSTEM



671 600 documents registered in the records of administrators and LPP supervisory persons

insolvency proceedings and legal protection proceedings registered in EMUS **33 700**

220 EMUS regular users

1 289 EMUS eService users

ACTIVITIES OF ADMINISTRATORS

148 number of administrators

114 administrators on the list of candidates (in queue)

18 average number of insolvency proceedings per administrator

MONITORING

number of administrators sanctioned to total number of administrators **24%**

3 administrators misappropriated funds

"Advice first" **50%** of inspections closed by the Insolvency Control Service after explaining to the administrator the wrongness of his actions

Prevention of Money Laundering

18 inspections conducted

sanctions imposed **10**

fine imposed **3 600 euro**

developed **4** informative materials, organised

4 informative events

Administrative offence cases

for breach of the rules of insolvency proceedings persons held administratively liable: **55** **23** additional penalty imposed

total amount of the fine **33 890 euro**

average fine per person **616 euro**

1. OFFICIAL ACTIVITIES OF THE ADMINISTRATOR

1.1. Control of the official activities of the administrator's

According to the Insolvency Register, at the end of 2023 there were 148 administrators, of which:

- ♦ 138 were active in the profession;
- ♦ 10 were restricted (i.e., suspended of official activities or suspended from the office).

Dynamics of the number of administrators 2019-2023

31.12.2023.	148
31.12.2022.	153
31.12.2021.	164
31.12.2020.	176
31.12.2019.	177

In 2023, by a decision of the Director of the Insolvency Control Service, six administrator's official activities were **terminated**, three of whom were removed for abuse of their powers, while three were removed of their own will. One decision was also taken to suspend an administrator from the office because he/she has been granted suspect status in a criminal case, while three administrators have been temporarily suspended. One administrator has been reinstated.

Decisions on the termination of an administrator's official activities, by grounds

	2020	2021	2022	2023
Did not apply to take the qualification exam	1	1		
At own will	3	5	5	3
Twice removed from insolvency proceedings for breaches of regulatory enactments	6	4	1	
Abuse of powers			1	3
Death		1	1	
Convicted of intentional criminal offence	1			
No appropriate education			3	
Total	11	11	11	6

1.2. Examination

According to the amendments to the Insolvency Law, after appointment, the administrator shall take a qualification examination every five years starting from the date of appointment or the date of passing the previous qualification examination. To ensure that the examination process is conducted in accordance with these amendments, on 5 March 2024 the Cabinet of Ministers adopted Regulation No. 148 "Procedures for the Training and Examining of Candidates for Administrators of Insolvency Proceedings and for the Official Activities of Administrators of Insolvency Proceedings", which entered into force on 12 March 2024. **The main changes that will affect the examination of applicants and administrators are:**

- the scope and extent of the training program for administrator applicants has been revised to include money laundering and the prevention of terrorism and proliferation and the protection of natural persons' data;

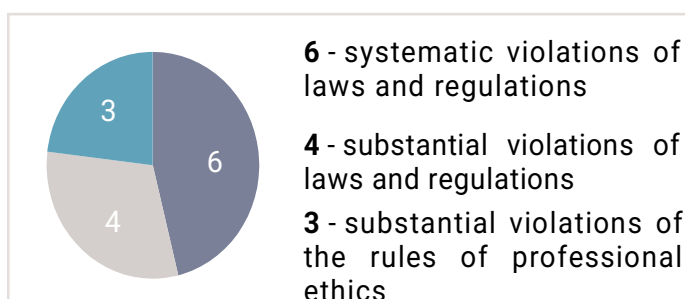
- the third part of the examination for administrators will consist only of a structured interview, testing the applicant's competences, excluding oral answers to theoretical questions, as the applicant's theoretical knowledge is tested in the first and second parts of the examination;
- the procedures for evaluation of examination work have been specified, taking into account the findings established in the case-law;
- the administrator's office certificate is to be issued electronically in the future, instead of a plastic card, which will save administrative resources in its production;
- the qualification examination for administrators will now consist of one part, which will test the administrator's practical knowledge in the form of a casus, including theoretical questions (previously the qualification examination consisted of two parts: theoretical and practical (solving the casus)).

To ensure that administrators are examined in accordance with the requirements laid down in the regulatory enactments, **the Insolvency Control Service will organise two qualification examinations in 2024 - on 25 April and 16 October.**

1.3. Disciplinary liability

In 2023, the Insolvency Control Service adopted 2 decisions to initiate disciplinary proceedings against an administrator. The above-mentioned disciplinary proceedings were initiated based on a petition of the Insolvency Control Service for systematic violations of regulatory enactments in the activity of the administrator. The Commission of Disciplinary Matters in both cases decided not to impose disciplinary sanctions and instructed the Insolvency Control Service to explain in writing the wrongness of the action to the administrator.

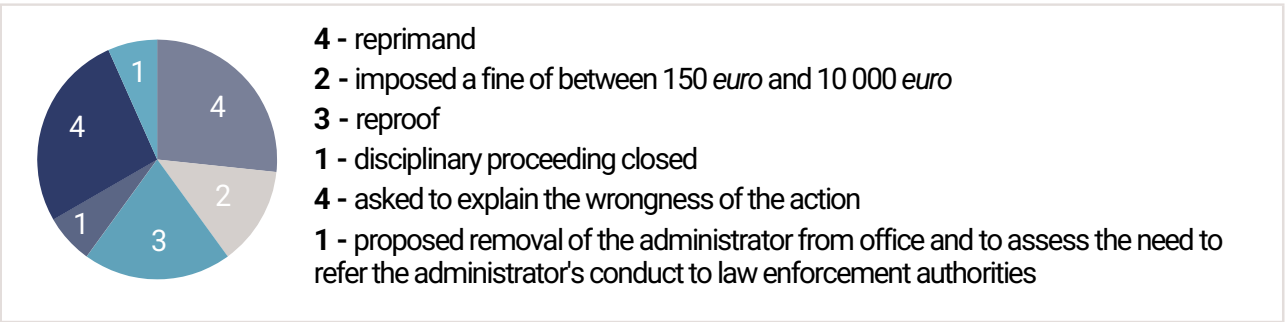
Decisions initiating disciplinary proceedings 2019-2023



between 2019 and the end of 2023, the Insolvency Control Service has adopted 13 decisions to initiate disciplinary proceedings against 12 administrators and in one case - against the LPP supervisory person.

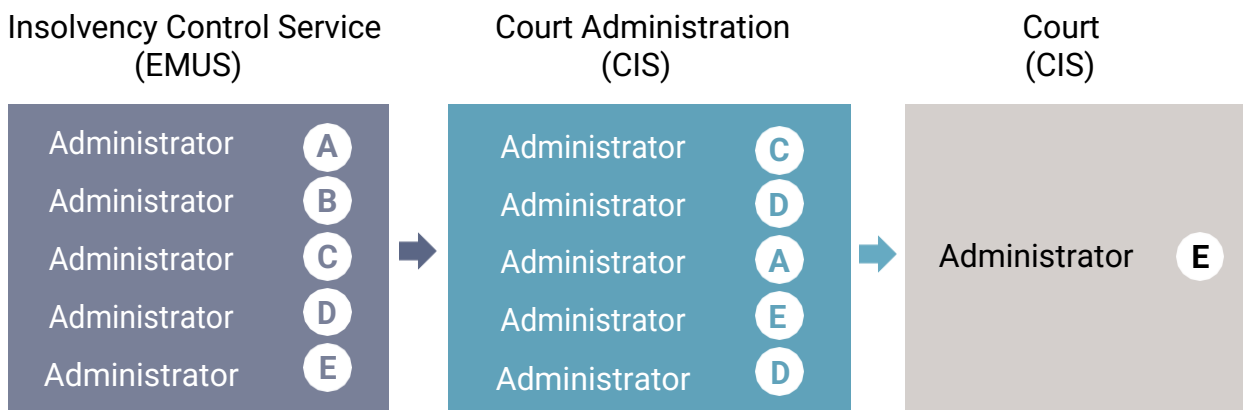
In general, based on the findings of the Insolvency Control Service in the framework of supervision, disciplinary proceedings were initiated for systematic violations of laws and regulations, substantial violations of laws and regulations and substantial violations of the rules of professional ethics. As a result of the disciplinary proceedings, the Commission of Disciplinary Matters has imposed the following penalties on the person subject to disciplinary action: reprimanded in four cases, fines imposed (between 150 euro and 10 000 euro) in two cases, reproofed in three cases, one disciplinary case is closed, in four cases, the Insolvency Control Service has been instructed to explain to the person liable to disciplinary action the wrongfulness of the actions and in one case the Commission of Disciplinary Matter has proposed to the Director of the Insolvency Control Service that the administrator be removed from office and to assess the need to refer the matter to law enforcement authorities.

Decisions on disciplinary measures 2019-2023



1.4. Maintenance of the list of candidates for administrator

The Insolvency Control Service maintains a list of candidate administrators in EMUS, from which an administrator is selected for appointment in the insolvency proceedings of a particular legal person and natural person using an automated and random algorithm provided by CIS. **At the end of 2023, the list of candidates for the insolvency proceedings of legal persons and the insolvency proceedings of natural persons included 114 administrators.**



On 14 October 2023, amendments to Cabinet of Ministers Regulation No 837 of 18 December 2018 entered into force "Procedures for the establishment of the list of candidates for the office of insolvency administrator and the selection of the candidate for the office of insolvency administrator", stipulating that in future the Insolvency Control Service EMUS will also organise the list of candidates for credit institution insolvency proceedings on the basis of objectively verifiable criteria determined by the Cabinet of Ministers. In the insolvency proceedings of a specific credit institution, the administrator is appointed according to the same principles as in the insolvency proceedings of a legal person and a natural person - through an automated and random selection process provided by the CIS. At the same time, the Bank of Latvia continues to supervise insolvency proceedings of credit institutions.

By the end of 2023, the Insolvency Control Service has received 12 applications requesting to be included in the list of candidates for the insolvency proceedings of a credit institution. By the end of the year, six administrators had been evaluated and shortlisted, and the evaluation of the remaining administrators will continue in 2024.

Insolvency control service in 2023 carried out a functionality audit. The audit concluded that no non-compliance was found in the selection procedure for the insolvency proceedings of legal and natural persons and the insolvency proceedings of credit institutions - the procedure for selecting a candidate for the office of administrator is robust, transparent and allows an independent third party to verify its legality.

2. MONITORING

The aim of the supervision exercised by the Insolvency Control Service is to ensure that the actions of the administrator and the LPP supervisory person comply with the requirements of regulatory enactments and to prevent insolvency proceedings from being used for money laundering and financing of terrorism and proliferation, as well as circumvention and violation of international and national sanctions, thus promoting the rule of law and efficiency of insolvency proceedings and, consequently, contributing to the creation of an attractive business environment and attraction of investments.

The Insolvency Control Service shall exercise supervision in accordance with the competences laid down in the Insolvency Law and in accordance with the competences laid down in the Prevention Law. From 1 April 2024, the Insolvency Control Service will also exercise supervision in accordance with the competences laid down in the Sanctions Law. In addition, the Insolvency Control Service is conducting administrative offence proceedings for breach of the rules on insolvency proceedings and legal protection proceedings.

In the area of supervision, in 2023 the Insolvency Control Service continued to implement the priorities and tasks set out in the monitoring strategy 2022 - 2023. At the end of this period, the Insolvency Service has developed a new Monitoring Strategy 2024 - 2025 setting out the monitoring priorities, directions and measures to be applied. For the next two years, the Service's monitoring priorities will be:

Supervision under the Insolvency Law

1

the administrators have evaluated a timely, comprehensive and full assessment of the debtor's transactions before the insolvency proceedings were declared and have acted to recover the debtor's assets and to hold liable persons who have acted to withhold performance of the debtor's obligations and have caused damage to the debtor

2

the administrators have dealt lawfully and in good faith with the debtor's funds

3

the administrators have ensured that the principle of transparency towards the persons involved in the insolvency proceedings is respected

4

the administrators have acted lawfully and efficiently in the process of surveying, taking over, recovering, evaluating and selling the debtor's assets

5

administrators and LPP supervisory persons use EMUS in accordance with the requirements of the regulatory enactments and the quality of the data entered corresponds to the actual situation

6

the administrators have assessed the good faith of the debtor, a natural person, and have acted in accordance with the Insolvency Law if they have found that the debtor was not in good faith

7

the LPP is carried out in accordance with the requirements of the regulatory enactments. Supervisory persons act in accordance with the requirements of the laws and regulations, fulfilling their duties and using their rights in a substantive rather than a formal manner

Supervision under the Prevention Law

1

administrators have carried out a risk assessment of their activities and have established an effective ICS

2

administrators have carried out and documented client due diligence in accordance with regulatory requirements (both for the debtor and for the counterparty to the property sale, if necessary)

3















the administrators have submitted reports to the Financial Intelligence Unit in a timely manner and in accordance with the requirements of the law

Supervision under the Sanction Law

1

administrators ensure decent and effective sanctions risk management by conducting and documenting an international and national sanctions risk assessment and developing an ICS based on it

Clarification of compliance requirements is essential to achieve the monitoring objective. To enhance administrators' understanding of the application of the legal provisions, **the Insolvency Control Service has developed information materials and organised the following events in 2023:**

-  [Informative material "On the application of the Prevention Law to insolvency proceedings opened before 2020"](#)
-  [Informative material on the principles for the application of supervisory instruments](#)
-  [Informative material for efficient handling of debtors' assets](#)
-  [Methodological guidance for using the EMUS e-service and entering information](#)
-  [Insolvency sector risk assessment](#)
-  [Summary of explanations provided by the Insolvency Control Service](#)
-  [Processing of personal data in money laundering and the prevention of, and compliance with, sanctions for the financing of terrorism and proliferation](#)
-  [Basic principles and procedures for the conduct of inspections by the Insolvency Control Service in the field of money laundering and the prevention of the financing of terrorism and proliferation](#)
-  [INFOGRAPHIC: How to apply to an administrator to administer the insolvency proceedings of a credit institution](#)
-  [INFOGRAPHIC: Criteria for the inclusion of an administrator in the list of candidates](#)
-  Informative event "On the implementation of the requirements of the Insolvency Law and the Prevention Law" (19.04.2023.)
-  Informative event "Training for administrators on the use of EMUS" (19.09.2023.)
-  Information event "Training for administrators on changes in regulatory enactments and submission of employee claims in EMUS" (26.10.2023.)
-  Informative event "Aspects of the sale of property in the enforcement of the Prevention Law and the Insolvency Law. Counter-terrorism and counter-proliferation aspects in the implementation of the Prevention Law. On issues relating to the performance of the office of administrator and the examination" (05.12.2023)

2.1. Supervision under the Insolvency Law

In its 2023 supervision, the Insolvency Control Service found irregularities in 24% of all administrators. Although this figure is up from 20% in 2022, the overall compliance of administrators with the law is good. The targeted risk-based monitoring and various preventive measures implemented by the Insolvency Control Service are effective and yield positive results. Situations where the Service finds serious misconduct or abuse of powers are occasional.

2.1.1. Planned inspections

Risk-based, planned inspections measures are an essential tool to prevent and reduce violations. Overall, in 2023, the Insolvency Control Service has carried out the following supervision activities:

- **28 on-site in-depth inspections** of the practices of supervisory person and administrators
- **21 off-site in-depth inspections** on the conduct of administrators in legal persons proceedings;
- **39 thematic off-site inspections**, which examined a specific particular aspect of the insolvency proceedings or legal protection proceedings. These inspections were triggered by information received from the parties or third parties involved in the proceedings, by ancillary court decisions and by specific proceedings selected in the framework of risk-based supervision.

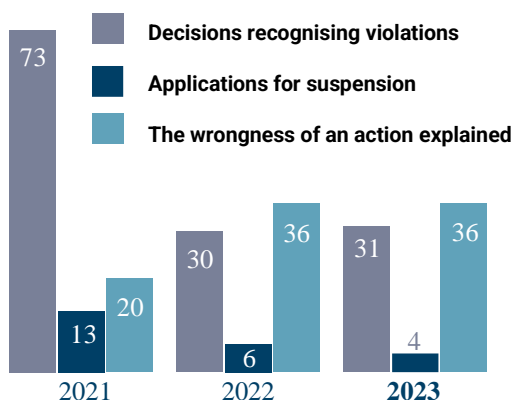
In addition to the thematic inspections mentioned above, **the Insolvency Control Service has also carried out off-site horizontal inspections, which have examined:**

- whether the LPP supervisory person keep records in the EMUS in accordance with the requirements of regulatory enactments. The inspection covered 61 LPPs, in 28 cases letters were sent to remedy deficiencies and in one case the inspection concluded with a report on the initiation of administrative offence proceedings against the supervisory person;
- whether the data necessary for the calculation of the insolvency sector's performance indicators (creditors' claims admitted, creditors' claims settled, funds raised, costs) are entered in the EMUS process card. The inspections covered 139 insolvency proceedings, 45 cases where letters were sent to remedy deficiencies, and telephone consultations. The inspections remedied significant deficiencies.

In 2023, the number of violations detected by administrators in the context of planned inspection activities has increased. The Insolvency Control Service, when carrying out inspections, adopted 31 decisions on the recognition of irregularities in the activities of administrators, in total 112 irregularities. On the initiative of the Insolvency Control Service, three administrators in four insolvency proceedings were removed from a particular insolvency proceeding for irregularities, as these administrators had unlawfully handled the debtor's funds by transferring them to their own current account without a legal basis. The Insolvency Control Service has reported this unlawful conduct to the Corruption Prevention and Combating Bureau and the State Police, where criminal proceedings have been initiated.

In line with the "Advise First" principle, the Insolvency Control Service increasingly applies a preventive supervision tool in its inspections - explaining the wrongness of an action to make administrators aware of the requirements of the regulatory enactments. **In 2023, the wrongness of the actions was explained to the administrator in 50% of the inspections carried out.**

Applied supervision instruments



Similarly to 2022, in 2023 the most frequent violations detected related to:

Irregularities related to the identification/recovery/sale of the debtor's property	10
Irregularities related to the evaluation of the debtor's transactions	11
Drawing up a report on the non-existence of property and a plan for the sale of property	11
Irregularities related to the provision of information to parties to the proceedings (creditors, court, etc.)	12
Irregularities related to the use of EMUS	12

Example

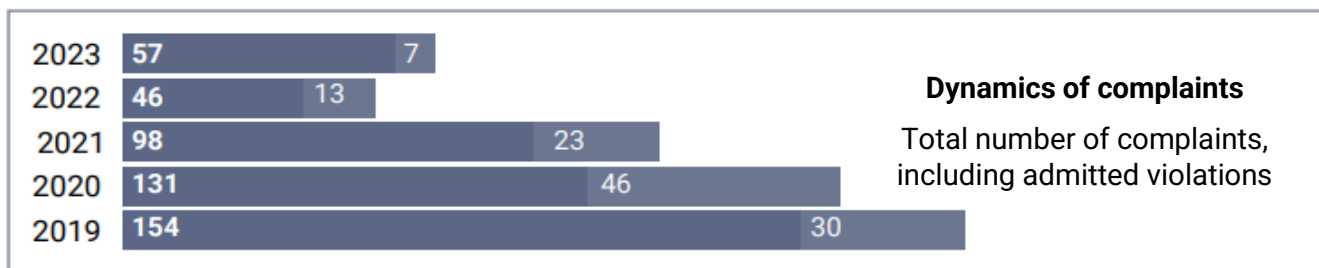
During on-site in-depth inspections, it was established that the administrator transferred funds from the debtor's settlement account to his own private settlement account (indicating the purpose of the payment as "administration expenses" and "advance payments"), to cover the administrator's tax payments as a self-employed person (payments of the mandatory State social insurance contributions and personal income tax). It was also noted that on the day of the inspection, the administrator had transferred the funds transferred to himself back to the debtor's settlement account, with the purpose of the payment being "advance repayment". The inspection concluded that the administrator's handling of the debtor's funds by transferring them to his private settlement account to settle his tax payments as a self-employed person was an abuse of the administrator's powers in handling the debtor's assets. It is therefore concluded that the administrator in the insolvency proceedings of the debtor abused his exclusive powers to dispose of the debtor's funds entrusted to him contrary to the provisions of the Insolvency Law. The Insolvency Supervisory Service applied to the court for the administrator's removal. Administrator's explanations to the court indicated that according to the accounting laws and regulations, advance settlements are permissible. The Court, granting the application of the Insolvency Control Service, concluded that the Insolvency Law does not grant the administrator any discretion over the debtor's funds, including the right to use the debtor's funds for personal interests. At the same time, the court held that the administrator's objections that the regulatory enactments regulating accounting permitted advance payments were unfounded, as the administrator was not the subject specified in Paragraph 36 of Regulation No. 877 of the Cabinet of Ministers of 21 December 2021 "Accounting Regulations", who would be entitled to receive or disburse advance payments from the debtor's bank account. In the light of the foregoing, the Court held that the administrator's conduct in transferring funds from the debtor's settlement account to his private settlement account was indicative of the administrator's pecuniary interest and of reasonable doubts as to the administrator's impartiality and ability to lawfully administer the insolvency proceedings. The fact that the administrator transferred the debtor's funds transferred to himself back to the debtor's settlement account is irrelevant to the case, since the administrator had no legal basis to transfer funds from the debtor's settlement account to his own private settlement account in the first place. The Court held that the administrator in the insolvency proceedings of the debtor had abused his powers by handling the debtor's funds entrusted to him, contrary to the provisions of Article 26(2) and Article 95 of the Insolvency Law.

2.1.2. Complaints

A complaint to the Insolvency Control Service against the conduct of the administrator or the LPP supervisory person is an essential tool for the protection of the rights of the person involved in the insolvency proceedings or the LPP.

In 2023, compared to 2022, there is an increase in the number of complaints lodged with the Insolvency Control Service, while the number of admitted violations continues to decrease. In 2023, 57 complaints were received against the conduct of 31 administrators (in 40 insolvency proceedings) and one LPP supervisory person, i.e., 19% more than in 2022, when a total of 46 complaints were received. However, complaints received in the last quarter of 2022 (4 complaints received in the 4th quarter of 2022) and in 2023 have been the subject of 52 decisions, of which only 7 decisions found irregularities in the conduct of the administrators, whereas 13 decisions in 2022 and 23 decisions in 2021 found irregularities. There is also a tendency to file several complaints against the same administrator in the same insolvency proceedings.

Despite an increase in the number of complaints filed with the Insolvency Control Service in 2023, there has been an overall downward trend in the number of complaints and detected violations since 2020.



Assessing the nature of the complaints, it can be concluded that the persons involved in the insolvency proceedings most often complain about the administrator's conduct related to the failure to provide information on the insolvency proceedings or its incomplete provision, the failure to assess creditors' claims, as well as the failure to survey, recovery and unjustified alienation of the debtor's property (for example, the failure to recover receivables, the failure to take possession of property, the alienation of property belonging to the debtor to a third party).

However, when assessing the nature of the violations detected in the actions of the administrators, it can be concluded that the violations detected are mainly related to the failure to ensure transparency in the insolvency proceedings. In five out of seven decisions finding that the administrators had infringed the regulatory enactments, it was found that the persons involved in the insolvency proceedings had not been provided with information on the conduct of the insolvency proceedings (e.g. information/documents not provided, extended reply/information not provided, plan for the sale of debtor's property not sent, administrator's activity reports not sent).

Example

In the assessment of the complaint against the administrator's conduct in relation to the incomplete provision of information, it was concluded that the administrator had failed to comply with the principle of transparency in insolvency proceedings by not providing the applicant with a reasoned response to the facts alleged in the application concerning the possible transfer of the debtor's business, namely by not stating why the circumstances alleged in the application did not constitute a set of features that could be indicative of a possible transfer of the debtor's business and how the administrator came to the relevant conclusion that there were not sufficient grounds to establish a transfer of the business.

The administrator, to ensure compliance with the principle of transparency, was required to provide the applicant with a reasoned reply that left no doubt as to whether the administrator had assessed the information in his possession, i.e. the reply had to be based on the established facts, the legal provisions and, where possible, case law and judicature.

The Insolvency Control Service, having assessed the complaints received in 2023, has not found any substantial violations that would be grounds for an application to the court for the administrator to be removed from his/her duties in the insolvency proceedings in question. The decrease in the number of complaints is attributable to the planned supervision of administrators by the Insolvency Control Service, as well as the development of informative materials and the conduct of informative events, which has resulted in a better understanding of and compliance with the requirements of the regulatory enactments by administrators. The decrease in violations, in turn, shows that the Insolvency Control Service has raised the awareness of those involved in insolvency proceedings about the insolvency process.

2.2. Supervision under the Prevention Law

In 2023, based on Article 46(1)(12) of the Prevention Law, the Insolvency Control Service has developed an insolvency sector risk assessment which provides a comprehensive and well-founded vision of the threats, vulnerabilities, typologies, trends and risks of money laundering and financing of terrorism and proliferation that exist in the sector. The conclusions of the insolvency sector risk assessment are contained in the Financial Intelligence Unit's National NILLTPF risk assessment report 2020 - 2022. The risk of the insolvency sector is rated as medium-low and, overall, administrators are highly rated among the non-financial sector in terms of their compliance with the requirements of the Prevention Law.

The Insolvency Control Service has carried out 18 inspections of insolvency proceedings of legal persons in 2023 in the field of supervision of the Prevention Law. 11 were carried out as off-site inspections, and seven as on-site inspections.

Violations detected

Offences leading to a proposal for sanctions against the administrator

- extended failure to report suspicious transactions to the Financial Intelligence Unit;
- extended failure to develop ICS; extended
- failure to investigate the client;
- substantial violations in client research documentation;
- the administrator has failed to remedy violations of the requirements of the Prevention Law identified by the supervisory and control institution.

Deficiencies identified

Common deficiencies found during inspections, which allow the administrator to explain the wrongness of the action and give a deadline to remedy the non-compliance

- Disadvantages of the ICS
- The risk assessment of the professional activities of the administrator is not developed and documented or is deficient.
- Deficiencies in the client's risk assessment that do not affect the client's level of risk.
- Failure to update the client's risk assessment.
- Weaknesses in the documentation of client research.
- Weaknesses in client due diligence (failure to conduct due diligence in a pre-2020 process, deficiencies in sanctions risk management, lack of publicly available client information, lack of information on the beneficial owner of the client, its relationship to the status of politically exposed person).

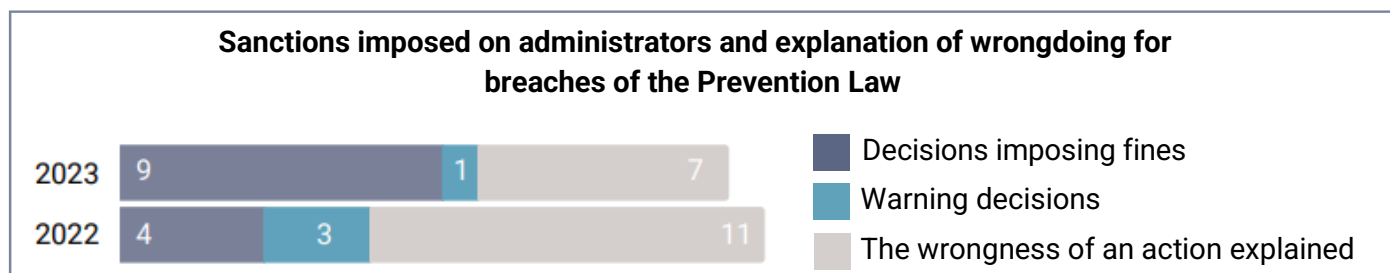
Example

In the context of the extended failure to report suspicious transactions to the Financial Intelligence Unit, the inspection found the following case. In 2021, the debtor made two payments totaling 20 600 *euro* to a company registered in Poland for the purpose of a loan. After receiving the loan, the Polish company has not paid the debtor any interest or other payments related to the loan, nor has the debtor taken any action to recover the amount transferred. The debtor's representative has failed to provide the administrator with documents supporting the loan to the Polish company, indicating that the funds were defrauded. The administrator stated that he was critical of the actions of the debtor's representative in transferring the money to the Polish company and that it was incomprehensible why the debtor had not contacted the police if the money had been transferred under threat. At the same time, the administrator did not file a report with the Financial Intelligence Unit because it did not identify any suspicious transactions, including because it considered that this was a matter for the State Revenue Service, which had information on the debtor's transactions, as the creditor of the debtor and the tax authority. The report was not submitted to the Financial Intelligence Unit until 2023, more than 17 months after the debtor's insolvency proceedings were declared, and only after the Insolvency Control Service had concluded its inspection. It was concluded that the administrator had failed to comply with the obligation under Article 31.4(1)(2) of the Prevention Law to immediately report any suspicious transaction to the Financial Intelligence Unit, which led to the proposal for a sanction.

Compared to 2022, there is an increase in the number of sanctions. In 2023, the Insolvency Control Service, having independently established a breach of the Prevention Law by an administrator, imposed sanctions on 10 administrators for breaches of the Prevention Law, i.e. adopted one decision to issue a warning and nine decisions to impose fines of 3 600 *euro* (total amount of fines imposed).

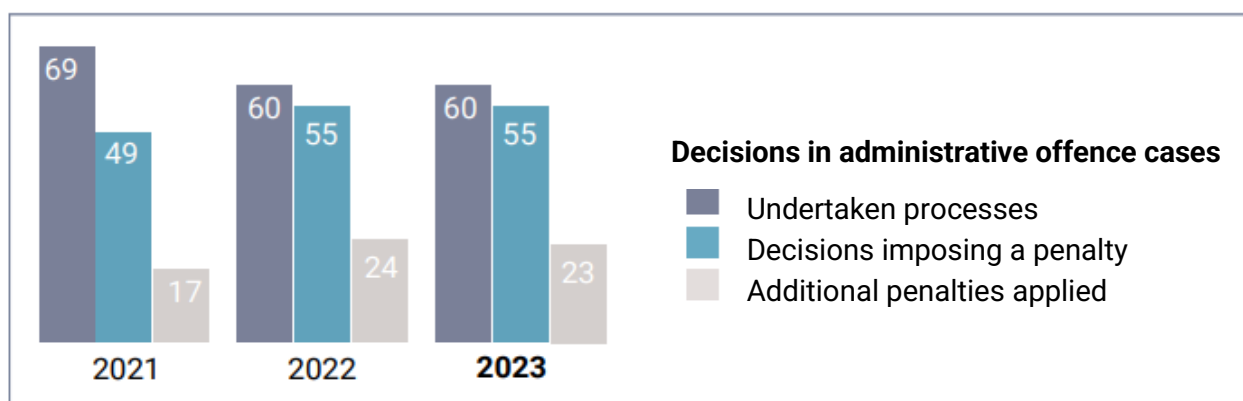
In 2022, the Insolvency Control Service, having independently established a breach of the Prevention Law by an administrator, imposed sanctions on 7 administrators for breaches of the Prevention Law, i.e. adopted three decisions to issue a warning and four decisions to impose fines of 1 650 euro (total amount of fines imposed).

Information on sanctions imposed on administrators is available on the Insolvency Control Service's website in the section "[Liability for breach of the Prevention Law](#)".



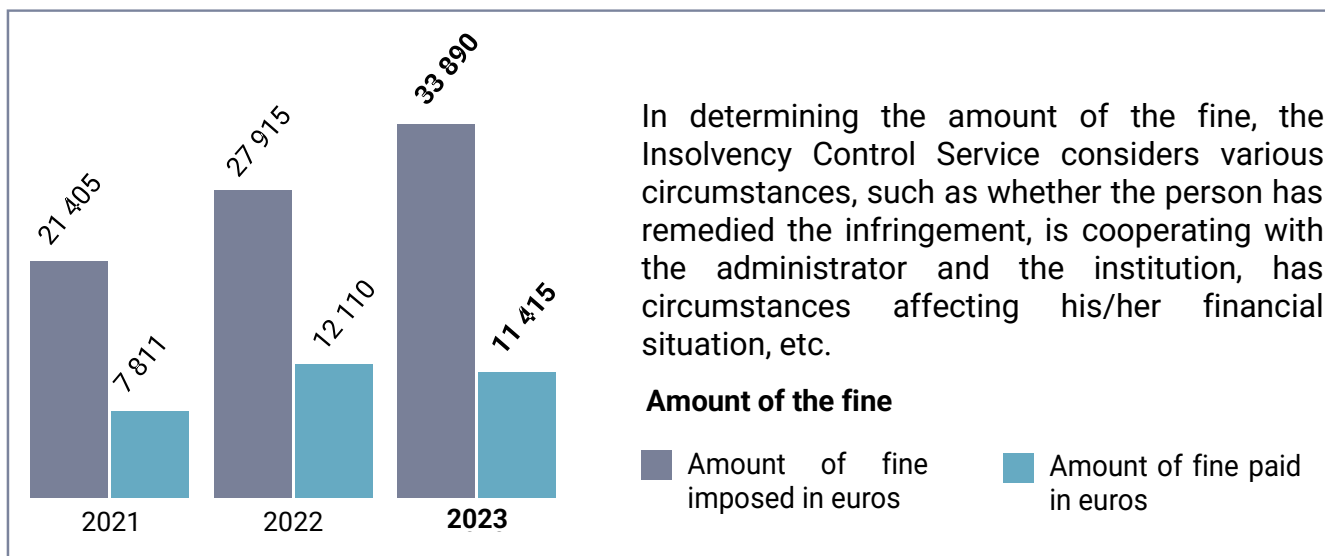
2.3. Administrative offence cases

In administrative offence cases for breach of the rules on insolvency proceedings and the LPP, **in 2023, the Insolvency Control Service initiated 60 administrative offence proceedings and held 55 natural persons administratively liable, 23 of whom were also subject to an additional penalty** - a deprivation of rights from holding certain positions in commercial companies. The number of administrative proceedings initiated, and the number of persons held administratively liable in 2023 remained unchanged compared to 2022. Compared to 2022, the additional penalty deprivation of rights was applied almost as often in 2023, i.e. 24 times in 2022.



The majority, i.e. 58 out of 60 administrative offence proceedings initiated in 2023, were against the debtor's representative in the insolvency proceedings of a legal person, in one case against the LPP supervisory person and in one case against the debtor in the insolvency proceedings of a natural person. The Insolvency Control Service also imposes an additional penalty on the persons held liable in administrative offence proceedings, as this is an effective means of excluding unscrupulous persons from the commercial legal circle for a certain period of time. In the cases examined, there is a tendency for the members of the board of directors of commercial companies to deliberately avoid liability for the failure to hand over documents and the consequent damages (both administrative and civil) suffered by the trader through various legal solutions.

In 2023, the amount of fines imposed by the Insolvency Control Service as part of the administrative offence proceedings increased to 33 890 euro from 27 915 euro in 2022, but the amount of fines collected decreased to 11 415 euro from 12 110 euro in 2022. The average fine per person has also increased to 616 euro, from 507 euro in 2022.



The Director of the Insolvency Control Service, or a higher official within the meaning of the Law on Administrative Liability, has taken five decisions in 2023 when considering complaints against decisions taken at Level 1 in administrative offence cases.

Of the five decisions adopted in 2023, in one case the Insolvency Control Service has modified the administrative penalty originally imposed. Whereas in 2022, nine decisions were taken on complaints, in three cases modifying the administrative penalty imposed. The decline in the number of complaints is partly due to the gradual consolidation of case-law, making it possible to prepare decisions based on case-law, thus reducing the chances of complainants having decisions overturned or amended.

Of the five decisions taken by a higher official of the Insolvency Control Service in 2023, three were appealed to the courts following the examination of complaints. In 2023, the courts have adopted four decisions on the decisions of the Insolvency Control Service in administrative offence cases (including decisions adopted before 2023), which have not annulled any decision of the Insolvency Control Service, in one case modifying the amount of the penalty imposed.

Several complaints allege that the institution has failed to consider objective circumstances identified by the complainants which, according to the latter, have prevented the debtor's representative from performing his/her duties, such as health problems, non-receipt of parcels, ignorance of duties, etc. Several complaints also contain arguments that the institution has imposed disproportionate penalties, including an additional penalty which denies the complainants, as representatives of the debtor, rights from holding certain positions in commercial companies. There is also a tendency in 2023 and previous years for complaints to include arguments that complainants are unfairly subjected to administrative liability because other persons were required to fulfil the obligations imposed on complainants, as well as to point to actions by administrators that have affected the ability of complainants to fulfil their obligations as representatives of the debtor. Some of the complaints submitted to the court contain essentially the same arguments as those contained in the complaints submitted to the Insolvency Control Service against the initial decision of the official, which leads to the conclusion that the complainants have often failed to assess the necessity and expediency of submitting complaints.

3. PROTECTION OF EMPLOYEES IN THE EVENT OF INSOLVENCY OF THE EMPLOYER

The unpaid wages of the insolvent employer are covered by a Guarantee Fund held and managed by the Insolvency Control Service. The Guarantee Fund is funded by the employer's part of the State entrepreneurial risk fee which the employer pays each month for each of its employees – the fee is currently 0.36 *euro* (4.32 *euro* per year).

To reduce the negative consequences of insolvency proceedings, the State guarantees the protection of employees by covering the employer's unpaid wages for a limited period and to a limited extent. The maximum amount payable for each claim (corresponding to a full month) is linked to the minimum wage and a half. The Guarantee Fund covers wages, downtime, sick leave, or annual leave up to a maximum of 92 calendar days, leave compensation up to a maximum of 28 calendar days (if the employee has not taken leave in the last 12 months) and severance pay up to a maximum of 30 calendar days (regardless of whether the employee is entitled to severance pay of more than one salary). For all the above types of claims, the maximum amount (gross) to be granted from the Guarantee Fund in 2023 per employee was 5 668.15 *euro* (including the employer's share of the compulsory employer's rate of payments of the mandatory State social insurance contributions).

The increase in the minimum wage from 620 *euro* to 700 *euro* from 1 January 2024 will have an impact on the amount to be paid to employees from the Guarantee Fund. In insolvency proceedings declared as from 1 January 2024, the maximum gross amount per employee to be granted from the Guarantee Fund will increase to 6 399.68 *euro* (incl. the employer's share of the compulsory employer's rate of payments of the mandatory State social insurance contributions). The Insolvency Control Service does not take over the employer's debts to the employees and covers them only to the extent provided for in the legislation. The remaining part of the employee's claim is covered by the debtor's assets.

At the same time, it should be noted that the Insolvency Control Service does not grant the employee more money than he would have been entitled to while working in the insolvent company, i.e. if the employee's unpaid salary was less than 1 and a half times the minimum monthly wage, the employee will receive money from the Guarantee Fund in the amount calculated in the accounts for the relevant period of time.

The average time taken to process an employee's claim (and, consequently, the money transferred to the employee's account after the decision) depends on the quality of the documents submitted by the debtor-employer and the professionalism of the administrator. In 2023, employee claims were dealt with in 19 days on average, 21% shorter than in 2022 and 60% shorter than in 2021.

The average time to process an employee claim from 2019 to 2023:

Year	Administrators' applications to settle employees' claims in insolvent employers' companies (number)	Including EMUS submissions (number)	Average time taken to process an employee claims application (in days from the administrator's application)
2023	62	12	19
2022	57	10	24
2021	65	4	47
2020	73	3	46
2019	112	-	45

Looking at data from previous years it can be concluded that the Guarantee Fund covers less than half of the maximum gross amount per employee, e.g. in 2023 the average amount covered by the Guarantee Fund per employee was 1 805 euro, which was only 32% of the maximum gross amount.

The reasons why the Guarantee Fund covered only 32% of the maximum gross amount to be granted could be:

- incomplete period (instead of the maximum three months) - the employer has owed the employee for a shorter period (fewer months or even days), which is covered to the maximum extent possible by the Guarantee Fund. There are several explanations for this:
 - the employer is acting in good faith and asks itself the court to declare the company insolvent in due course;
 - the employer's creditor asks the court to declare the company insolvent;
 - employees take active steps (e.g. filing for insolvency themselves, applying to the National Labour Inspectorate or the courts to recover wages from their employer) and prevent their employer from failing to pay them on time.
- minimum wage (the employee is paid the minimum wage, while the Guarantee Fund pays one-and-a-half times the minimum wage);
- the Guarantee Fund does not always pay claims for severance pay. The Guarantee Fund only pays severance pay in the cases set out in Article 112 of the Labour Law, e.g. if an employee is dismissed on the basis of Article 114 of the Labour Law (mutual agreement between the employee and the employer on the termination of the employment relationship), the Guarantee Fund does not pay severance pay;
- the shadow economy - "envelope wages". The State Revenue Service does not record all the wages actually paid to the employee, so he/she loses the right to ask the Guarantee Fund to pay the actual wages.

Average amount of employees' claims covered by the Guarantee Fund and proportion of the maximum possible amount of employees' claims from 2019 to 2023

Year	Maximum gross amount to be granted to 1 employee, including employer's share of the employer's rate of payments of the mandatory State social insurance contributions, EUR	Average gross amount covered per employee, including employer's share of the employer's rate of payments of the mandatory State social insurance contributions, EUR	Proportion of the gross amount of the maximum amount to be granted to be covered by employee claims, %
2023	5 668	1 805	32
2022	4 571	1 842	40
2021	4 571	1 359	30
2020	3 947	1 440	36
2019	3 947	1 342	34

In 2023, the Insolvency Control Service paid out 1 261 954 euro from the Guarantee Fund to settle the claims of 699 employees of 62 insolvent companies.

Major employers whose employees' claims are covered by the Insolvency Control Service in 2023:

Major employers	Number of employees	Amount paid, euro
SIA LATVIJAS-VĀCIJAS KOPUZŅĒMUMS"REHO"	275	551 114
SIA "GROS AUTO"	22	65 260
SIA "TOOL INDUSTRY"	29	54 598
SIA "FABERLIC BALTIJA"	52	45 899
SIA "KITA18"	28	44 518

In 2023, significant changes have been made to the regulatory enactments (amendments to the Law "On Protection of Employees in the Event of Insolvency of an Employer" and amendments to the Cabinet of Ministers Regulation of 27 December 2011 No. 995 "Procedure for Satisfaction of Claims of Employees of Insolvent Employers and Payment of Administrator's Remuneration") that provide for the protection of employees:

- the number of employees eligible for a payment from the Guarantee Fund has been extended: employees whose employer has been declared insolvent after 14 September 2023 will also be eligible for a payment from the Guarantee Fund. To ensure this, from 1 October 2023, all natural persons who will employ workers (including natural persons engaged in economic activity who were not previously obliged to do so) will be required to pay the State entrepreneurial risk fee;
- enhanced protection for employees if they bring an action against their employer for wages before the insolvency proceedings have been declared - prior to these amendments, if an employee had gone to court for unpaid wages from his employer before the declaration of insolvency, not all employees' claims could be covered by the Guarantee Fund, so the assessment period has been extended from 1 year to 3 years before the declaration of insolvency to protect those employees who have taken active steps to protect their rights by going to court;
- protection of employees in the event of insolvency proceedings being declared on the basis of an employee's application, i.e. where an employee has applied to the court for insolvency proceedings and insolvency proceedings have been declared on the basis of that application, and where the employee's claim does not fall within the general 12 - month period before the insolvency proceedings are declared which can be covered by the Guarantee Fund, the general 12 - month period will be replaced by the 12 - month period before the employee's employment relationship is terminated;
- protection of employees also in cases where the insolvency proceedings of a legal person have been transferred to a LPP (and the employees will not be paid from the Guarantee Fund), which is terminated, and the insolvency proceedings are declared insolvent again. Prior to these amendments, employees in such cases lost their right to claim from the Guarantee Fund because, to be eligible for claims from the Guarantee Fund, employees' claims must fall within the 12 - month period preceding the declaration of insolvency, and the insolvency proceedings must not have been terminated. The amendments provide that, in such cases, the Guarantee Fund will now cover employees' claims for the first period of the insolvency proceedings, and the Guarantee Fund will continue to pay out even though the insolvency proceedings have already been terminated;

- facilitating the submission of employee claims by employees, simplifying the procedure by no longer requiring employees to fill in a form, employees can now freely provide details of unpaid wages (unpaid wages, leave compensation and severance pay) or fill in a shortened and simplified form (Information on employee claims) available on the Insolvency Control Service's website;
- automated data processing and reduced manual work to ensure that employees' claims are dealt with as quickly as possible and that employees receive unpaid wages from their employer as quickly as possible - in insolvency proceedings to be declared as from 1 January 2024, the administrator is obliged to submit employee claims to the Insolvency Control Service via EMUS, which will have a positive impact on the speed of processing employee claims, as it will automate calculations and the generation of decisions.

4. EMUS

Considering that the Insolvency Control Service's operational strategy for 2021 - 2025 prioritizes the digitization of processes, the Insolvency Control Service has set the maintenance and improvement of EMUS as one of its main tasks in 2023.

documents registered in the records of the administrators and the LPP supervisory persons		671 600
insolvency proceedings and legal protection proceedings registered in EMUS		33 700
220	EMUS regular users	1 289
		EMUS e-service users

Within the funding provided in 2023, the Insolvency Control Service in cooperation with the Court Administration implemented both new functionalities and enhancements to several existing functionalities of EMUS to improve the working environment of EMUS users. For example:

- 1) functionality is developed to enable the administrator to check in EMUS whether a person involved in the insolvency proceedings (e.g. a creditor) is included in one of the sanctions lists;
- 2) expanding the system of recommending candidates for administrators by introducing an electronic and random system for selecting an administrator in the insolvency proceedings of a credit institution
- 3) to adapt EMUS to the changes in the insolvency legal framework introduced by the transposition of the Directive on restructuring and insolvency, a new type of insolvency proceedings has been created where the debtor, a natural person, is at the same time a sole proprietorship or owner of an individual (family) undertaking, farm, or fishing enterprise, changes have been made to the conduct of LPP, the procedure for filing and handling employee claims, etc.

Several EMUS improvement actions are planned for 2024, the most important of which are:

- introduce a new solution for sending documents from EMUS to ensure more transparent and traceable sending of documents from the system;
- introduce changes to the EMUS e-service regarding the merger of the creditor's claim with the employee's form in order to comply with regulatory changes;

- plans to make it easier for administrators to enter employee claims and to improve the generation of EMUS documents;
- to improve the quality of data in EMUS, a monitoring tool will be developed to notify administrators in a timely manner if there are inaccuracies in the data they enter;
- in cooperation with the Court Administration, the use of the "AppDynamics" tool will be launched, providing additional system monitoring capabilities that will enable more effective troubleshooting.

In 2023, EMUS has been highly acclaimed in an international environment - at the IAIR conference in Belgrade, Serbia.

5. INSOLVENCY INDUSTRY UPDATES

The Insolvency Service has compiled a set of performance indicators for the insolvency sector for 2023. The indicators have been obtained by aggregating data entered by administrators in EMUS, data from CIS and the insolvency register.

Last year, 308 insolvency proceedings were initiated, and 242 insolvency proceedings were declared. Compared to 2022, there has been a decrease in the number of insolvencies of legal persons, reaching the number of 2021, when various restrictions on the initiation of insolvency proceedings to reduce the effects of Covid – 19 were in place. The decrease in the number of proceedings in 2023 shows that neither Covid - 19 nor the economic difficulties caused by the Russian-led war in Ukraine are having an impact on the insolvency sector.

The trend towards fewer personal insolvency proceedings in 2023 remains unchanged – 737 insolvency proceedings declared. With the national minimum wage rising every year, the deposit for insolvency proceedings for a natural person is rising from 1 240 *euro* in 2023 to 1 400 *euro* in 2024, making the process increasingly expensive and inaccessible for those in financial difficulty.

Absolute number of insolvency proceedings and LPPs

Indicator	2021	2022	2023
Legal persons insolvency proceedings initiated (including on creditors' applications)	257 (54)	393 (186)	308 (136)
Insolvency proceedings of a legal person declared	242	302	242
Insolvency proceedings of a natural person declared	901	816	737
Initiated LPPs	92	129	90
Declared LPP//OLPP	26	16	25

In 2023, the number of legal protection proceedings initiated has decreased compared to 2022, with 90 cases initiated. At the same time, the number of legal protection proceedings declared has increased, with 25 proceedings declared. The ratio of initiated to declared proceedings has therefore increased significantly, to 28% in 2023 compared to 12% in 2022.

In 2022, the number of completed LPPs has decreased in relation to all terminated LPPs, with only 9% of all initiated LPPs having been completed with a LPP plan of measures. In most cases, the court terminates the LPP already at the initiation stage, i.e. in 59% of cases the LPP is terminated because the LPP plan of measures prepared by the debtor has not been approved by most creditors required by the Insolvency Law.

LPP efficiency indicators

Indicator	2021	2022	2023
Number of LPPs (OLPPs) declared vs. number of insolvency proceedings declared for a legal person	11%	5%	10%
Proportion between the number of initiated and declared LPPs	28%	12%	28%
Number of successfully completed LPPs (OLPPs) to terminated LPPs (OLLPs)	16%	11%	9%

Particularly notable among the indicators of the efficiency of insolvency proceedings is the number of so-called empty insolvency proceedings, i.e. proceedings where a report on the non-existence of debtor's property has been drawn up. In 2023, 59% of such cases occurred. This problem goes back to the pre-insolvency period, but it has a significant impact on the insolvency sector, both in terms of creditors' recovery rates and administrators' remuneration. As the Insolvency Control Service's Monitoring Strategy 2024 – 2025 concludes, some debtors had no turnover at all in the last years before the insolvency proceedings were declared, and some did not submit annual accounts. This points to the possibility of deliberately late insolvency filings and the development of so-called "zombie companies". The Insolvency Control Service has drawn the attention of the parties involved to this problem in both 2022 and 2023 and will continue to play an active role in 2024 by offering solutions aimed at the timely filing of insolvency proceedings.

The indicator for the number of successfully completed insolvency proceedings of natural persons remains unchanged for the third year – 71% of all natural persons have completed the process with the extinguishing obligations. However, those persons whose insolvency proceedings have been closed without extinguishing their obligations have mostly not complied with the plan for extinguishing obligations or, for various reasons, have not been subject to the procedure for extinguishing obligations at all. In the area of natural persons' insolvency, the problem of unscrupulous legal service providers misleading persons in financial difficulties about their ability to discharge their debts has come to the fore in 2023. Some persons have been dismissed from insolvency proceedings without having their liabilities extinguished because of legal advice that does not comply with the law, leaving them in an even worse financial situation.

Insolvency proceedings efficiency indicators

Indicator	2021	2022	2023
Average duration of insolvency proceedings (years)	2	2,4	2,1
Recovery rates of secured creditors (cents per euro)	44	68	52
Recovery rates of unsecured creditors (cents per euro)	9	12	17
Costs of insolvency proceedings (cents per euro recovered from creditors / cents per euro recovered in insolvency proceedings)	44	40	46
Proportion of number of proceedings in which report on the non-existence of the property has been drawn up	54%	55%	59%
Number of successfully completed procedure for extinguishing obligations in relation to the number of completed insolvency proceedings of a natural person during the year	72%	71%	71%

Administrators' performance

Indicator	2021	2022	2023
Average number of insolvency proceedings per administrator	17 (4 legal and 13 natural person insolvency proceedings)	18 (5 legal and 13 natural person insolvency proceedings)	18 (5 legal and 13 natural person insolvency proceedings)
Number of administrators penalised in relation to total number of administrators (percentage)	32%	20%	24%
Number of proceedings in which the insolvency administrator has been replaced due to irregularities, in relation to the number of active cases	0.5%	0.17%	0.17%

For an analysis of the data related to the supervision of administrators, see "[Monitoring](#)".

Major legal person insolvency proceedings closed in 2023

SIA "EKOAGRO"	In terms of the number of creditors' claims recognised	19.1 million euro (report on non-existence of the property has been drawn up)
AS "Dzintars"	In terms of recovered property	6,9 million euro
	In terms of covered claims	4,9 million euro
	In terms of insolvency proceeding costs	2 million euro
	In terms of the administrator's remuneration	0,3 million euro

Absolute figures for legal person insolvency proceedings closed in 2023

Indicator	2021	2022	2023
	million euro	million euro	million euro
Amount of creditors' claims recognised (euro), including:	336,9	192,3	148,8
secured	126,3	23,6	20,2
unsecured	210,6	168,7	128,6
Amount of financial recoveries (euro), including:	55,1	40	46
funds recovered from the realisation of the pledged assets	44,1	13,9	7,4
funds recovered from the realisation of unencumbered assets	11,0	14,3	6,1

Amount of claims settled (<i>euro</i>), including:	25,8	21,0	10,8
secured	18,2	8,5	7,3
unsecured	7,6	12,4	3,5
Total costs (<i>euro</i>), including:	23,3	5,2	3,3
administrator's remuneration	2,5	1,7	0,9
expert fees	0,2	0,8	0,2
other costs	20,6	2,8	2,2

6.2024 priorities

In addition to the daily tasks that the Insolvency Control Service carries out to fulfil the functions entrusted to it, there are several highlights for 2024.

The 6th evaluation round of the Moneyval will be carried out, which will provide an opportunity to demonstrate internationally that Latvia has significantly improved its anti-money laundering performance. The Insolvency Control Service, as a supervisory and control institution in the insolvency sector, will ensure the preparation and submission of the necessary information, the representation of compliance in the field during the on-site visit, as well as other tasks to be performed by Latvia in accordance with the provisions of the Moneyval and FATF assessment procedure.

In 2024, the Insolvency Supervisory Service will organise two qualification examinations for administrators (in April and October), during which all administrators will be examined. These examinations are the first to be held after the transition from a two to a five-year qualification period. The examination has also been substantially revised from two parts - theory and practical - to one part – practical.

To ensure the transparency of the Insolvency Control Service's activities and to promote uniform practice in the application of insolvency law, the Service will start publishing its decisions on its website in 2024. In compliance with data protection requirements, anonymised decisions taken by the Insolvency Service during its supervision and complaint handling, as well as decisions taken by the Disciplinary Board, will be published.

In 2024, several draft laws and regulations will also be developed - the Cabinet of Ministers' rules on the procedure for administrators to keep their own records will need to be revised, as well as the rules governing the operation of EMUS. As every year, the Service will draft the Cabinet of Ministers' Regulation on the State entrepreneurial risk fee.

In 2024, the Insolvency Control Service will carry out a study on the effectiveness of the avoidance actions in insolvency proceedings of a legal person. The study will analyse the data available to the Insolvency Control Service and will aim to conclude how effective these institutes are in practice, as well as to make proposals to the institutions involved to improve the legal framework and practice.

The Insolvency Service plans to join the IAIR in 2024, which brings together national insolvency regulators from around the world. Membership in this organisation will provide an opportunity to exchange best practices and the latest trends in insolvency regulation and supervision and will be a valuable contribution to the development of the Latvian insolvency sector.

As insolvency policy implementer the Insolvency Control Service, we will continue to work together with the Ministry of Justice, as well as to engage in targeted cooperation with non-governmental organisations and public administrations to provide proposals and support to improve the regulatory framework in the field of insolvency.