Insolvency statistics

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The year 2020 was marked by the coronavirus crisis. It caused the German economy to experience a downturn that has surpassed even the financial market crisis in 2008. As early as April 2020, the International Monetary Fund (IMF) was predicting the worst recession since the Great Depression in the 1930s.[1] In June 2020, the German Council of Economic Experts issued its second economic outlook for 2020 since the outbreak of the Covid-19 pandemic, forecasting that gross domestic product would fall by 6.5%.[2] Earlier, in March 2020, the Council had published a special report on the coronavirus pandemic in which it anticipated a decline by as much as 8.5%. For 2021, the Council's economic "sages" are forecasting GDP growth of 4.9%, with a return to the pre-pandemic level in 2022.

The travel and tourism[3] and catering industries both continue to be hit particularly hard by the shutdown and its consequences. But the automotive industry and machinery construction, which were already in bad shape to begin with, also suffered considerably from the reduced export possibilities and supply chain disruptions. Admittedly, the Federal Government put together the largest (financial) aid package in the history of the Federal Republic of Germany, with "budgetary measures" totalling EUR 353.3 billion and guarantees of EUR 819.7 billion.[4] But the emergency aid of EUR 9,000 (companies with up to five employees) and EUR 15,000 (with up to 10 employees) for a maximum of three months was probably just a drop in the bucket for many companies.

Contrary to expectations, however, the number of insolvencies has not increased. Instead, company insolvencies once more fell nationwide in 2019 for the eighth year in a row. Similarly, insolvencies in the first half of 2020 declined by about 5% compared with the prior-year period (from 6,864 to 6,498 commenced insolvency proceedings) despite the coronavirus pandemic. This is shown in the first and second sets of figures, showing total commenced company insolvencies (including sole proprietorships) in 2019 and in the first half of 2020, broken down by federal state.

A comparison of the insolvency figures of the federal states reveals, unsurprisingly, that Germany's most populous state, North Rhine-Westphalia, also posted the most insolvencies, with more than twice as many commenced insolvency proceedings as in Bavaria, which came in second. The commencement rate rose only slightly, by less than one percentage point to approximately 72.32%.

1 *Erholung 2021 unter Vorbehalt: IWF erwartet globale Rezession* (Recovery in 2021 uncertain: IMF expects global recession). In: *FAZ.NET*. ISSN 0174-4909.

2 https://www.sachverstaendigenrat-wirtschaft.de/en/economic-outlook-2020.html.

3 See the article on p. 54.

4 https://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Schlaglichter/Corona-Schutzschild/2020-03-13-Milliarden-Schutzschild-fuer-Deutschland.html.

There were noteworthy changes in terms of the total value of the claims affected by an insolvency. In 2019 creditor claims averaged EUR 1.199 million per application for commencement of insolvency proceedings, representing a slight increase over the previous year (EUR 1.083 million). However, the statistics for the first half of 2020 show creditor claims averaging EUR 1.801 million, meaning a rise of nearly 40% compared with 2019. This is consistent with the finding by the Halle Institute for Economic Research (IWH) that while fewer companies entered insolvency in 2020, they were larger.[5] The total value of insolvency claims in 2019 once again increased slightly compared with the previous year, from EUR 21.0 billion to EUR 22.4 billion. Here, too, the rise in the first half of 2020 is striking: From January to June 2020, creditor claims amounted to approximately EUR 16.2 billion. When extrapolated for the year as a whole, the total value of claims would amount to EUR 32.4 billion, meaning an increase of about 30% compared with the previous year.

This should also be borne in mind when viewing the following chart. It shows the trend in (company) insolvency figures since 2010, which is based on the official statistics of the Federal Government and the federal states. Although the number of insolvency proceedings has been falling since 2011, this does not necessary mean that the losses caused by insolvencies are decreasing as well – as is made clear by the foregoing figures.

The next two lists show the number of standard insolvency proceedings commenced in 2019 and the first half of 2020, broken down by insolvency court. Once again, Berlin is the undisputed leader, with 1,479 commenced company insolvency proceedings. In contrast to the statistics above, these figures also include natural persons who were formerly self-employed. Cologne overtook Munich for second place, with 962 proceedings.

The number of proceedings involving self-administration and the protective shield procedure fell slightly year-on-year to 217 cases, or 1.60% of total insolvency proceedings (in 2018, the figure was 1.63%). In the first half of 2020, there were 167 such "ESUG" proceedings (for the Act for the Further Facilitation of the Reorganisation of Companies (*Gesetz zur weiteren Erleichterung der Sanierung von Unternehmen*, ESUG)) involving self-administration and the protective shield procedure, which is a relatively high number. Extrapolated for the year as a whole, this would mean 334 proceedings, which would be the highest number by far since the ESUG was introduced.

The final overview, showing the top 10 firms in 2019 by administrator appointment reveals few surprises: The upper half of the table is occupied by law firms that have a nationwide presence, with the share of appointed administrators numbering in the double digits. Nor were there many changes in the bottom half of the table compared with the previous year. The share of company insolvencies that were handled by administrators from the top 10 law firms rose from 22% in 2018 to 23% in 2019, reaching as high as 25% in the first half of 2020. While this indicates that the top 10 law firms have an established position on the market, it also means at the same time that 75% of insolvency proceedings are being awarded to administrators who work in smaller or regional units.

5 *Sächsische Zeitung Dresden*, 7 October 2020.