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UPDATE ON THE SCOPE OF LIABILITY FOR IMMORAL DELAY IN FILING FOR INSOLVENCY

IN THE EVENT OF INSOLVENCY OR OVERINDEBTEDNESS OF A LEGAL ENTITY, THE MEMBERS OF THE REPRESENTATIVE BODY OR THE LIQUIDATORS ARE OBLIGED TO FILE FOR INSOLVENCY. IN THE EVENT THAT THE APPLICATION FOR COMMENCEMENT OF INSOLVENCY PROCEEDINGS IS NOT FILED OR NOT FILED IN DUE TIME, THE REPRESENTATIVE BODY RISKS NOT ONLY CRIMINAL PROSECUTION BUT ALSO PERSONAL CIVIL LIABILITY VIS-À-VIS THE CREDITORS OF THE INSOLVENT COMPANY. IN INDIVIDUAL CASES, ALSO CONTRACTUAL PARTNERS OF THE INSOLVENT COMPANY CAN BE HELD RESPONSIBLE. IN A RECENT DECISION, THE FEDERAL COURT OF JUSTICE (BGH) HAS DEALT WITH THE SCOPE OF CIVIL LIABILITY FOR IMMORAL DELAY TO FILE FOR INSOLVENCY. THIS DECISION IS OF CONSIDERABLE RELEVANCE FOR PRACTICE. ([more...](#))