

# Estonia: The challenges of further digitalisation in insolvency proceedings

**Estonian digital governance has been among the best in the world, with almost 99% of state services available online.<sup>1</sup>**

However, one could argue that insolvency proceedings have not been smooth or digital enough so far. Several years of insolvency law revision in Estonia have finally reached their momentum and significant amendments were enacted as of 1 February 2021.<sup>2</sup> The aim of these changes to the Estonian Bankruptcy Act is to make insolvency proceedings faster, more cost-efficient and transparent. This should also increase satisfaction of claims of creditors and decrease the number of assetless insolvencies.

## The online framework

In Estonia, all bankruptcy petitions and documents can be submitted via the state electronic e-Filing system (called '*e-Toimik*').<sup>3</sup> The site also allows for tracking the status of insolvency proceedings and receipt of documents.

If a creditor insists that the bankruptcy petition must be heard at a court hearing, the creditor must indicate this in the bankruptcy petition. Otherwise, the creditor is deemed to agree to the adjudication of the matter by way of written (digital) proceedings. Thus, written (digital) proceedings are more favoured.

Creditors are required to notify the bankruptcy trustee of their claims against the debtor arising before the declaration of bankruptcy within two months from the date of publication of the notice concerning the bankruptcy of the debtor in the official electronic publication (*Ametlikud Teadaanded*).<sup>4</sup>

As a completely new method introduced by the changes, all creditors' claims are defended in



written (digital) proceedings managed and resolved by the court and not at a creditors' meeting or separate litigation over claims, which used to be a very lengthy process in Estonia.

On the basis of the proofs of claim received within one month after expiry of the period for submission of the creditor's claims, the bankruptcy trustee prepares a preliminary list of creditors which he or she presents to the creditors for examination by means of the official electronic publication. Any creditor may submit written substantiated objections to other creditors' claims. If no objections have been filed by a bankruptcy trustee or any creditor, the trustee shall submit the final list of creditors to the court via the *e-Toimik* system.

Afterwards, the court must adjudicate the submitted objections, positions, requests and petitions enclosed with the list of creditors on the merits, determine the rankings of claims and the distribution ratios and approve the list of creditors within 30 days. The court will publish a notice concerning a ruling on approval or refusal to approve a list of creditors in *Ametlikud Teadaanded* and send the ruling to the trustee, the debtor who filed an objection, the creditor who filed or received an objection and the creditor whose request for restoring the claim was not satisfied.

## Further developments

The submission and receipt of all related documents via the *e-Toimik* system and publication of relevant notices in *Ametlikud Teadaanded* has been seen as an initial small step towards better digitalization of not only insolvency proceedings, but the whole judicial sector in Estonia.

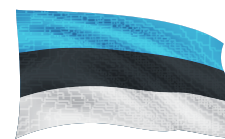
## Summary

Thus far, the judicial sector has been lagging behind in terms of digitalizing procedures and cross-border cooperation. In an increasingly digital society, cross-border judicial cooperation will rely more and more on e-justice solutions to facilitate the interaction between different national and European actors in legal procedures.

In this light, e-CODEX will offer a European digital infrastructure for secure cross-border communication and information exchange in criminal and civil law. It is a matter of pride to see that Estonia has been chosen as a forerunner and optimal location for this cross-border data exchange as well. There will be interesting and challenging times ahead, indeed! ■

### Footnotes:

- <sup>1</sup> <https://e-estonia.com/>
- <sup>2</sup> <https://www.riigiteataja.ee/en/eli/521012021001/consolidate>
- <sup>3</sup> <https://etoimik.rik.ee/>
- <sup>4</sup> <https://www.ametlikudteadaanded.ee/eng/index>



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