

The Lithuanian Insolvency Publication and Registration Requirements under Article 21 and Article 22 of the European Insolvency Regulation

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NOTE: for the purposes of Regulation, the bankruptcy proceedings performed under the Lithuanian Law on Bankruptcy of Enterprises No IX-216 of 20 March 2001 as later amended (“Law on Bankruptcy”) (*Lietuvos Respublikos įmonių bankroto įstatymas*) and Lithuanian Law on Restructuring of Enterprises No IX-218 of 20 March 2001 as later amended (“Law on Restructuring”) (*Lietuvos Respublikos įmonių restruktūrizavimo įstatymas*) are relevant.

1) What are the publication procedures in your jurisdiction for notice of the opening of insolvency proceedings?

Bankruptcy Proceedings

The Law on Bankruptcy does not directly impose a duty of the bankruptcy administrator to publish notice of the opening of insolvency proceedings. The Law places the duty to publish the notice of the opening of the proceedings on the state authority - the Department of Management of Bankruptcy of Enterprises under the Ministry of Economy („Department“) (*Įmonių bankroto valdymo departamentas prie LR Ūkio ministerijos*, www.bankrotodep.lt).

According to the Law on Bankruptcy, the notice must be published in the enclosure of the Official Gazette of Lithuania. The Department arranges for publication based on the application received from the bankruptcy administrator (Part 3 of Art.11).

The procedure of submission of such application is regulated by the Rules on Submission and Publication of the Data on Company’s Insolvency Proceedings adopted by Order No 4-194 of 10 May 2005 by the Minister of Economy („Rules“) (*Duomenų apie įmonės bankroto procesą pateikimo ir skelbimo taisyklės*).

Within 5 business days from enforcement of the court decision on opening of insolvency proceedings the bankruptcy administrator must submit to the Department the application for publication. The application must include the following information and data:

1. Full title, corporate code, seat of the company. If registered seat differs from actual seat, both addresses must be indicated.
2. Date and substance of relevant decision.
3. Contact details (name, surname, telephone, fax numbers, e-mail) of the administrator or the authorised person appointed by the administrator, if legal entity.

4. Title of the court, which opened insolvency proceedings, date and number of the relevant decision.
5. Title of the administrator, number of authorisation to provide services of administration, name, surname and contact data of administrator or authorised person appointed by administrator, if legal entity.
6. Date, until which the creditors' claims are accepted, and place (address) where they are accepted.
7. Date and venue (address) of the first meeting of creditors.
8. Requisites of the bank account opened for accumulation of funds necessary for bankruptcy and settlement with creditors: number, title, address and bank code.

Restructuring Proceedings

Under Law on Restructuring, the administrator within 5 days after coming into effect of the court decision must publicly announce opening of restructuring proceedings in a national daily (Item 1 of Part 5 of Art. 17).

Similarly as in bankruptcy proceedings the information by the administrator or company's management, if agreed with administrator, is submitted to the Department. The procedure is regulated by the Rules on Submission and Publication of the Data on Company's Restructuring Proceedings adopted by Order No 4-194 of 10 May 2005 by the Minister of Economy („Rules“) (*Duomenų apie įmonės restruktūrizavimo procesą pateikimo ir skelbimo taisyklės*). The Department further arranges for publication in the Official Gazette. The application must include the following information and data:

1. Full title, corporate code, seat of the company. If registered seat differs from actual seat, both addresses must be indicated.
2. Date and substance of relevant decision.
- 3 Contact details (name, surname, telephone, fax numbers, e-mail) of the management member (director) of the company;
4. Title of the court, which opened restructuring proceedings, date and number of the relevant decision.
5. Title of the administrator, number of authorisation to provide services of administration, name, surname and contact data of administrator or authorised person appointed by administrator, if legal entity.
6. Date, until which the creditors' claims are accepted, and place (address) where they are accepted.

2) What should a liquidator from another Member State do in practice to arrange publication in your jurisdiction of notice under Art 21(1)?

For restructuring proceedings the publication in national daily can be arranged directly by contacting publisher. For bankruptcy proceedings the publication in national daily is not required.

For contacting the Department, the preapproved forms are typically used (which can be found on the website of the Department), however, they are prepared in Lithuanian language as yet. It must be mentioned that there exists no practice as yet with respect to enforcing the liquidator's right under Art 21 (1) and it may be stated that Lithuania has not implemented any rules, which could facilitate it. Therefore, the liquidator from other EU member state may face practical difficulties in implementing its right to request publication of notice in Lithuania.

Please also see above under Q 1.

3) If a debtor has an establishment in your jurisdiction, is it mandatory to publish there notice of the opening of insolvency proceedings in another Member State, in accordance with Art 21(2), and if so do the procedures vary from those described in 1) and 2) above?

If the debtor has an establishment in a form of registered branch or representative office in Lithuania, according to the Statutes of the Register of Legal Entities approved by the Decision of the Government No 1407 of 12 November 2003 as later amended (*Juridinių asmenų registro nuostatai*), it is mandatory to publish the opening of insolvency proceedings against the legal entity maintaining such branch or registered office in Lithuania. However, such publication consists only of notifying the Register of Legal Entities (*Juridinių asmenų registras*, www.registrucentras.lt). This register must be informed within five days after the decision of opening insolvency proceedings came into effect. The notification must be accompanied by the decision on opening of insolvency proceedings...

The Register of Legal Entities is a public register, the data of which is accessible to the public.

No other procedures are in place for publication on opening of insolvency proceedings in other Member States.

4) In what public registers (e.g. land register, trade register) in your jurisdiction may a judgement opening main insolvency proceedings be registered?

The Register of Legal Entities mentioned above Q3 is the most relevant register if the debtor has an establishment in the form of a registered branch or representative office.

In other cases and depending on the type of assets held by the debtor, other public registers might be of relevance Register of Real Estate, register of transport vehicles maintained by VI Regitra (www.regitra.lt), Register of Mortgages/Pledges, Land Register, Register of Arrests.

5) What should a liquidator from another Member State do in practice to register in your jurisdiction a judgement opening main insolvency proceedings under Art 22(1)?

This would depend on the specific register addressed. Typically special pre-approved forms must be used and each register addressed separately.

6) If a debtor has an establishment in your jurisdiction, is it mandatory to register there notice of the opening of main insolvency proceedings in another Member State, in accordance with Art 22(2), and if so do the procedures vary from those described in 4) and 5) above?

It is mandatory to register opening of insolvency proceedings in case the debtor has an establishment in a form of branch or representative office. Please refer to Q 3.