

Bulgarian Insolvency Publication and Registration Requirements and the Application of Article 21 and Article 22 of the European Insolvency Regulation

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

Bulgarian law does not contain provisions which implement or are especially designed to facilitate the application of Art. 21 of the European Insolvency Regulation. Bulgarian law regulates in principle insolvency proceedings related to debtors registered in Bulgaria.

However, if the debtor is a foreign company with a branch registered in Bulgaria, pursuant to the Bulgarian *Law on Commerce*¹ the opening of insolvency proceedings in the jurisdiction where the foreign company has its corporate seat will have to be registered under the file of the Bulgarian branch with the Commercial Register maintained by the Registry Agency in Bulgaria.

In addition, if the debtor is a foreign company which operates in Bulgaria via a trade representative office, such office has to be registered with the Trade Register of the Bulgarian Chamber of Commerce and Industry. However, the currently effective procedures governing the operation of that register do not provide for the publication of a notice for the opening of insolvency proceedings in the jurisdiction where the foreign company has its corporate seat.

In cases where insolvency proceedings are initiated against a debtor registered under the laws of Bulgaria, the following procedures related to notices, publications and registrations would be applicable:

1.1 Publication at the Commercial Register

If the court establishes that the debtor is insolvent or over-indebted and that the insolvency is not of a temporary nature, it is required to issue a decision for opening of insolvency proceedings in respect of such debtor (the "Opening Decision"). With the Opening Decision the court will, *inter alia*, call the first meeting of the creditors of the debtor (it has to be scheduled within 1 month of the Opening Decision).

The court is obliged to send the Opening Decision for registration with the Commercial Register not later than the day following the day of the decision. The invitation for the meeting of creditors also has to be published there and such publication is sufficient to deem all creditors duly notified. The Commercial Register is public and accessible online in Bulgarian language at: <http://www.brra.bg/>

¹ Promulgated in State Gazette, issue No. 48 dated June 18, 1991; last supplemented with State Gazette, issue No. 41, dated June 01, 2010.

1.2 Court Notices and Summons

Rulings and decisions of the court which can be subject to appeal in insolvency proceedings have to be sent to the interested parties in accordance with the procedure established by the Bulgarian *Code of Civil Procedure*.^{2 3}

Creditors with registered address abroad and without address in Bulgaria have to provide an address in Bulgaria where they can receive summons and notices related to the insolvency proceedings. If they do not provide such an address, the summons shall be sent for publication in the Bulgarian Commercial Register.

1.3 Entries in the Book at the Office of the Court

Furthermore, the acts of the court are entered in a separate book which shall be public and available in the office of the court. After the opening of insolvency proceedings, for acts which Bulgarian law does not require to be published in the Commercial Register or sent in accordance with the *Code of Civil Procedure*, the registration of a notice for the respective act in the book of the court shall be sufficient and the creditors shall be considered duly notified of the respective act.

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

We are not aware of any procedures under Bulgarian law related to the publication of notices in Bulgaria by a liquidator from another Member State under Art 21(1) of the European Insolvency Regulation. The only procedure, provided by Bulgarian law, for the publication of facts concerning the insolvency of foreign debtors is the one described in the answer to Question 5 below.

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?

Except for the case described in the answer to Question 5 below (concerning the Bulgarian branches of foreign companies) we are not aware of any other requirements under Bulgarian law for a mandatory publication of a notice in Bulgaria for the opening of insolvency proceedings in another Member State, in accordance with Art 21(2) of the European Insolvency Regulation. The definition of the term "establishment" under the European Insolvency Regulation, however, is wider than the concept of a "branch" under Bulgarian law⁴ and it is uncertain what publication procedure should be used for Bulgarian establishments that do not fall within the concept of a branch under Bulgarian law or are not registered as such.

² Promulgated in State Gazette, issue No. 50 dated July 20, 2007; last amended and supplemented with State Gazette, issue No. 13, dated February 16, 2010.

³ The only exception to this notification requirement is the ruling of the court for approving the distribution account which the liquidator prepares for the distribution of money received from the sale of the debtor's assets.

⁴ Under Bulgarian law the "branch" of a merchant is a legal and organizational form for carrying out economic activity where a company (or another type of merchant), through establishing a relatively independent part of its activities, carries out that activity in a location different from the location where its corporate seat is.

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

For the registration of judgements opening main insolvency proceedings in other jurisdictions, please refer to our answer to Question 5 below, whereas for the registration of judgements opening insolvency proceedings in Bulgaria, please refer to our answer to Question 1 above.

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)?

The only procedure regulated under Bulgarian law that governs the publication of facts concerning insolvency of foreign debtors is the one related to Bulgarian branches of foreign companies. As mentioned in the second paragraph of our answer to Question 1 above, the opening of insolvency proceedings in the jurisdiction where the foreign company has its corporate seat will have to be registered under the file of the Bulgarian branch with the Commercial Register maintained by the Registry Agency in Bulgaria. A liquidator from another Member State should prepare a standard-form application for the registration with the Commercial Register of all relevant facts related to the insolvency proceedings (as specified in Art. 17, para. 3 of the *Law on Commerce*). There are certain requirements regarding the form and the contents of the application and the supporting documents thereto, as well as regarding the authorisation of the person signing the application and the person filing the application. The application has to be filled out in the Bulgarian language and can be filed with the Commercial Register either electronically or as a hard copy.

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?

Please refer to our answers to Questions 5 and 3 above.