



GUIDANCE ON THE FINNISH INSOLVENCY PUBLICATION AND REGISTRATION REQUIREMENTS UNDER ART 21 AND 22 OF THE EUROPEAN INSOLVENCY REGULATION

In Finland the insolvency proceedings covered by the European Insolvency Regulation relate basically to bankruptcies and company reorganization proceedings. The Adjustment of the Debts of a Private Individual can not actualize as a means of European (main) insolvency proceedings.

Unless otherwise mentioned the following guidance concerning insolvency proceedings shall include the regulation concerning bankruptcies as well as company reorganization proceedings.

It should be noted that in bankruptcy proceedings between Finland and Denmark the Nordic Treaty on Bankruptcies shall apply instead of the European Insolvency Regulation. This is due to the reservation Denmark has made to the Amsterdam Treaty stating that Denmark shall not be bound by the European Insolvency Regulation.

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

According to the Finnish Bankruptcy Act (120/2004) and Company Reorganization Proceedings Act (47/1993) the publication procedures in the Finnish jurisdiction for notice of the opening of insolvency proceedings shall be executed by the District Court which tries the insolvency case and the Liquidator.

Prior to a decision on a bankruptcy or company reorganization proceedings the District Court shall register the pending application concerning insolvency proceedings to the *Register of Bankruptcy and Reorganization Proceedings* at the Legal Register Centre to allow the publication of the insolvency proceedings in the earliest possible stage.

Without delay after having made the decision concerning insolvency proceedings the District Court shall announce the opening of the insolvency proceedings in the Official Gazette (Virallinen lehti).

In addition the District Court may order that the Liquidator shall publish the announcement of the insolvency proceedings in one or more daily newspapers or abroad in a suitable manner. However, the District Court itself is *not obliged* to

Asianajotoimisto Attorneys Advokatbyrå

Asianajotoimisto Krogerus Oy, Pohjoinen Makasiinikatu 6 A, P.O. Box 143, FIN-00131 Helsinki, Finland

Phone + 358 (0) 9 622 6520, Fax +358 (0)9 631 811, helsinki@krogerus.com

Registered Office: Helsinki, Business ID: 0919666-0

announce the opening of insolvency proceedings abroad or notify a foreign Court or other institution or the foreign creditors.

In regards to a bankruptcy the District Court shall notify of the bankruptcy decision the debtor and the relevant creditors in the bankruptcy case. Further the District Court shall notify the Liquidator of the bankruptcy Estate.

Without delay after having received the notice of the opening of bankruptcy from the District Court the Liquidator shall contact the debtor and notify the debtor of the opening of the bankruptcy, in order to collect the relevant information concerning the creditors and the property of the debtor.

The Liquidator shall notify all known creditors and the contracting parties of the debtor of the opening of the bankruptcy proceedings in a suitable manner. The Liquidator shall contact all *known* creditors in another Member State in order to notify them of the bankruptcy. The creditors in another Member State shall be requested to disclose their claims at the earliest possible stage. In the request to disclose the claim the creditor can be informed further of the procedure and time limits on the bankruptcy.

Further the Liquidator shall notify the trade register and the tax authorities, the recovery proceedings authorities, the bankruptcy ombudsman's office, the pay security authorities at the regional Employment and Economic Development Centre, the District Court of the real property (*rei sitae*) owned by the debtor and the land register, the ships register, the aeroplane register, the book-entry register, the relevant IPR-registers and the trade licence authorities. In addition the Liquidator shall make a change-of-address request to the post office and notify the employees to terminate their employment at the earliest possible stage and the accountants to take custody of the books.

In a company restructuring process the District Court notifies those creditors the debtor has named as creditors. Also the Court shall register the opening of company restructuring process to the *Register of Bankruptcy and Reorganization Proceedings* at the Legal Register Centre from where the information is transmitted to the Trade Register, the recovery proceedings authorities, the District Courts of the real property (*rei sitae*) owned by the debtor and the debtors domicile as well as the Court empowered in the debtors (possible) bankruptcy. The Court may order the Liquidator to register these notifications. Further the Liquidator shall notify the registers and authorities mentioned in the previous chapter concerning the notifying duties of the Liquidator in a bankruptcy.

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

The Liquidator of (main) insolvency proceedings in another Member State has a right to request for the announcement of the notice concerning the insolvency proceedings. The request to announce the notice shall be made to the Legal Register Centre (Oikeusrekisterikeskus). For contact details see www.oikeus.fi/oikeusrekisterikeskus/.

The minimum requirements for the announcement to the Legal Register Centre are mentioned in Article 21(1). In addition the announcement shall include the complete identification details of the Court of the insolvency proceedings, the debtor and the Liquidator as well as their addresses. The Court decision of opening the insolvency proceedings shall be included in the request to announce the notice concerning the insolvency proceedings.

- 3) If a debtor has an establishment in the Finnish 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?

According to the Finnish legislation it is not mandatory to publish in Finland the notice of the opening of (main) insolvency proceedings in another Member State even when the debtor has an establishment in the Finnish jurisdiction.

The procedures of publishing the notice of opening (main) insolvency procedures have been described in 2) above.

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

The registration of insolvency proceedings should/may be made to the following public registers:

- 1) Register of Bankruptcy and Reorganization Proceedings

Notice shall be made by the Court. The purpose of this register is to ensure the publicity of the public announcements by allowing free access to the register for everyone.

- 2) Trade Register

Notice shall be made using the form Y4 which ensures that the information shall be transmitted to the Finnish Business Information System (BIS). The BIS is a joint service for businesses and organisations that are clients of the Finnish Tax Administration, Trade Register or Register of Foundations.

- 3) Land Register

Notice shall be made to the *rei sitae* District Court.

- 4) Book-Entry Register

Only when such property is owned by the debtor.

- 5) Vehicle Register

Only when such property is owned by the debtor.

6) Intellectual Property Rights Registers (e.g. patents, trademarks)

Only when such property is owned by the debtor.

7) Ships Register

Only when such property is owned by the debtor.

8) Aeroplane Register

Only when such property is owned by the debtor.

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

The Liquidator of (main) insolvency proceedings in another Member State has a right to request for the registration of the notice concerning insolvency proceedings to the *Register of Bankruptcy and Reorganization Proceedings* which is held by the Legal Register Centre (see 2) for contact details).

6) If a debtor has an establishment in the Finnish 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)?

According to the Finnish legislation it is not mandatory to register in Finland the opening of (main) insolvency proceedings in another Member State even when the debtor has an establishment in the Finnish jurisdiction. The Court decision of opening the insolvency proceedings shall be included in the request to register the opening of insolvency proceedings.

The procedures of registering the opening of (main) insolvency procedures have been described in 5) above.