

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

Jean-Luc Vallens

Judge

Professor (Université de Strasbourg)

5 Rue Werinhar

67000 STRASBOURG

France

jlvallens@yahoo.fr

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

The clerk of the court sends a copy of the judgment to:

- a) The official publication journal of civil and commercial announces ("BODACC")
- b) To a local newspaper entitled to publish legal information
- c) And to the register kept by the same court for all commercial entities ("registre du commerce et des sociétés").

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

The foreign liquidator has to file an application with the clerk of the court which has jurisdiction as relating to local assets, for publication of the foreign order (C. comm. Art. R. 123-91).

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?

Yes. Legal provisions require publication and registration of any order opening proceedings as soon as such proceedings apply to a local establishment, where ever it is located (C. comm. Art. R. 621-8). Therefore, it applies to establishments of foreign companies.

Rules are similar to those applied to any judgment opening proceedings.

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

Judgments are registered:

- For registered commercial entities, into the “registre du commerce et des sociétés”
- For non commercial entities, into the “repertoire des metiers”
- For independant persons, into a specific registry kept by the civil court.

Judgments are not submitted to publication into land registries where immovable assets belonging to the debtor are registered.

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 foreign liquidator has to justify its powers, to file for registration with the clerk and to present a copy of the foreign order, with an official translation into French.

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?

No. No legal provision requires such a publication, unless the foreign company belongs to an establishment in France.