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Lithuania: Rescue procedures in insolvency

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Lithuania

Phase:

Management

Type:

Rescue procedures in insolvency

Last modified: 10 December, 2021

Native name: LR juridinių asmenų nemokumo įstatymas Nr. XIII-2221

English name: Law on insolvency of legal entities of the Republic of Lithuania No XIII-2221

Article

1, 2, 4, 10, 31, 78, 104, 105

Description

New Law No XIII-2221 on insolvency of legal entities of the Republic of Lithuania entered into force in Lithuania on 1 January 2020, amending and merging the previous Law on enterprise bankruptcy of the Republic of Lithuania and the Law on restructuring of enterprises of the Republic of Lithuania. The main purpose of the Law on insolvency of legal entities is to create conditions for an effective insolvency process of legal entities, while ensuring a balance of interests of creditors and legal entities (article 1).

The law defines the insolvency of a legal entity as the state of the legal entity when it is unable to discharge its property obligations in time or the obligations of the legal entity are in excess of the value of its assets (article 2). According to the law, the right to initiate insolvency proceedings (restructuring) is vested in the head of a legal entity and a creditor whose claims on the legal entity exceed 10 minimum monthly wages (MMWs) approved by the government of the Republic of Lithuania (in July 2021, the MMW was €642 in Lithuania) (article 4). With regard to the initiation of insolvency of a legal entity, article 10 of the law provides for the possibility for the legal entity to agree on assistance with creditors (article 10). The agreement on assistance is an agreement between a legal entity and a creditor(s) for the provision of assistance by the latter to the legal entity to overcome financial difficulties. Assistance for the legal entity in overcoming financial difficulties may take a form of postponement of the term of discharge of obligations, waiver of claim to discharge obligations or any part thereof, replacement of one obligation with another one. It is important to note that the submission of a proposal for the conclusion of the agreement is a prerequisite before bringing insolvency to court (both for initiating bankruptcy and restructuring proceedings). This creates preconditions for the legal entity and its creditors to reach an agreement that would become a kind of 'lifeline' for the insolvent legal entity.

The process of restructuring of legal entities is regulated in chapter IV of the law. This process is defined as the totality of procedures which aim to overcome entity's financial difficulties, preserve its viability and avert bankruptcy by obtaining creditors' assistance to overcome financial difficulties through economic, technical, organisational and other means. A legal entity is considered to be in financial difficulties when it is insolvent or there is a substantial likelihood for it to become insolvent within the next three months (article 2).

In compliance with article 31 of the law, restructuring proceedings shall be initiated if all of the conditions below are met:

- a legal entity is in financial difficulties;
- a legal entity is viable;
- a legal entity is not under liquidation due to bankruptcy (bankruptcy proceedings are initiated if a legal entity is insolvent and not subject to restructuring proceedings).

The entity under restructuring shall prepare a restructuring plan in accordance with the requirements set out in article 104 of the law. The duration of the implementation of the restructuring plan shall not be longer than four years from the date of approval of the restructuring plan by the court (article 105).

The Law on insolvency of legal entities also provides for the possibility for legal entities to transit from bankruptcy to restructuring proceedings, and vice versa. This requires a court ruling to discontinue bankruptcy proceedings on the grounds of initiating restructuring proceedings (article 78).

Comments

The new Law No XIII-2221 on insolvency of legal entities of the Republic of Lithuania implements European Union legislation: Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ 2015 L 141, p.19).

According to the Authority of Audit, Accounting, Property Valuation and Insolvency Management, from 1 July 2001 (when the Law on restructuring of enterprises was adopted) to 31 December 2020, restructuring proceedings were initiated in 539 entities, of which 63 entities were successfully restructured (11.7%). Meanwhile, restructuring proceedings were terminated in 392 entities (72.7%), and 74 entities are still in the process of being restructured. In 2020, a total of 26 restructuring processes were initiated, which is by 21.2% less than the number in 2019 (33).

Cost covered by

Companies

Involved actors other than national government

Other

Involvement others

Court, creditors, restructuring administrator

Thresholds

No, applicable in all circumstances

Sources

-  [Law on Insolvency of legal entities of the Republic of Lithuania](#)
-  [The Authority of Audit, Accounting, Property Valuation and Insolvency Management. Overview of insolvency processes in 2020.](#)

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