

Lithuania

Rescue procedures in insolvency

Phase	Law on insolvency of legal entities of the Republic of Lithuania No XIII-2221
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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 (article 4). To view the current MMW, visit (<https://socmin.lrv.lt/en/activities/labour-and-employment/labour-law/remuneration-for-work/>). 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. 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).

Legal concept of the probability of insolvency has been introduced together with Law No XIV-450 of June 29, 2021 (came into force from 15 June, 2021) amending Law No XIII-2221 on insolvency of legal entities of the Republic of Lithuania. The probability of insolvency is understood as the situation of a legal entity in which there is a realistic probability that it will become insolvent in the next three months, and the law has been amended to provide for the right to initiate the insolvency proceedings in the event of the probability of the insolvency of the legal entity (Article 2(7-1)). Also rights of employee representatives are provided for, including information and consultation in the process of preparation and implementation of the restructuring plan. The restructuring plan must include, among other information (amendments to Article 104(2)): a description of the situation of the employees, the number of redundancies to be made; the general consequences of structural changes in the organisation of work, such as the application of short-time working, etc.; the procedure for providing information and consulting the employees' representatives, in accordance with the provisions of the Labour Code; and the information on the creditors affected by the restructuring plan and the creditors who are not, stating why these creditors are not affected by the restructuring plan.

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).

Government Resolution No 1125 of 14 October 2020 "On Amendments to Government Resolution No 924 of 4 September 2019 "On the Implementation of the Law on Insolvency of Legal Entities of the Republic of Lithuania" established the conditions for the operation of the early warning system in Lithuania. Such a system is designed to help businesses facing financial difficulties.

Commentary

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).

[The Authority of Audit, Accounting, Property Valuation and Insolvency Management](#) publishes data on insolvency proceedings, including information on initiated, successful and terminated restructuring proceedings.

Additional metadata

Cost covered by	Companies
Involved actors other than national government	Other Court
Involvement (others)	Creditors, restructuring administrator
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: 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.](#) ~~~ [Law No XIV-450 of June 29, 2021 amending Law on Insolvency of Legal enteties by Law No XIV-450 of June 29, 2021](#) ~~~ [The Authority of Audit, Accounting, Property Valuation and Insolvency Management. Overview of insolvency processes in 2022.](#) ~~~

Citation

Eurofound (2016), Lithuania: Rescue procedures in insolvency, Restructuring legislation database, Dublin