

Changes to the corporate insolvency law: possible increase of insolvency cases

On 1 January 2020, a new Corporate insolvency law entered into force in Lithuania. It brought some considerable changes among which the most important are (i) the change of the insolvency definition; (ii) more simple notification procedure for the creditors initiating insolvency procedure; (iii) changes in the ranking of creditors; (iv) liquidation of completely empty companies will be less costly; (v) more possibilities to initiate the restructuring of a company.

Firstly, the new insolvency definition provides that two alternative criteria may show that a legal entity is insolvent:

(a) the inability to perform financial obligations on time, OR
(b) when the debts of the legal entity exceed its owned property value. This significantly broadens the previous definition under which only a legal entity whose overdue debts exceeded its owned property value could have been considered insolvent.

Secondly, the creditors initiating insolvency proceedings of their debtors will now be able to send a notice on the initiation of the insolvency proceedings by electronic means of communication, and the notice term may be from 15 to 30 days. Also, alternative means for dealing with insolvency become accessible, such as non-judicial insolvency proceedings or plan on the assistance to the debtor with the creditor(s).

Thirdly, the ranking of the creditors (to get their claims satisfied) has also changed. As before, the priority will go to the creditors who have mortgage guarantees. Then, which is new, the creditors who provide new and/or interim funding to the debtor without mortgage guarantees will be next in line together with employees, state authorities, and creditors whose claims stem from the company's activity carried out during the bankruptcy proceedings. Further, the remaining assets will be allocated between all the other creditors.

The other news is the possibility to liquidate completely empty legal entities with the help of the Centre of Registers and more extensive possibilities to start restructuring processes, i.e. currently the creditors of the legal entity will also have the right of initiative to start the restructuring proceedings.

All in all, the new law seeks to ensure early resolution of corporate financial difficulties and promote business continuity, which seems to be beneficial both for the companies and their creditors.