

NJORD Lithuania: Is a restructuring process the right solution for business in financial difficulties due to circumstances related to COVID-19?

The COVID-19 outbreak and the quarantine regime imposed in Lithuania by the government, similarly to many other countries of the world, caused considerable damage to the business sector. Due to the various restrictions, the supply of goods has been interrupted, settlements between companies have been delayed, the workload has been reduced, and profits have decreased. A substantial number of employees have also been laid-off. In light of these circumstances, the restructuring process regulated by the Law on Insolvency of Legal Entities of the Republic of Lithuania (hereinafter – LILE) may be considered as one of the solutions available to the businesses experiencing financial difficulties.



One of the main advantages of the restructuring process is that a company can initiate the process any time as soon as it experiences financial difficulties but is still carrying out its activities, which allows for the company to settle with its creditors. This is especially important in the current quarantine situation, where companies' activities have been or are still suspended, companies have lost a lot of revenue, and there is no clear vision for the company's future profits and scope of operations.

Under LILE, the restructuring process may be initiated by the head of the company or by a creditor whose (overdue) claim exceeds 10 minimum monthly wages. The main requirements for a legal entity that wishes to initiate the restructuring process are the following:

1. the legal person is in financial difficulties
2. the legal person is viable
3. the legal person is not being liquidated because of bankruptcy.

The basis of the restructuring process is negotiations between the company's creditors and the company. First, a notice must be sent to all the company's creditors with a proposal to conclude a support agreement on various forms of support: deferral of payments, allocation of debts, request for the creditors for financial support for the company's activities, sale of the company's unused property items, etc. Such an agreement with the company's creditors is a basis for maintaining the company's operations and allows it to operate stably, avoiding further financial difficulties or even bankruptcy.

For the implementation of the restructuring plan, there is a term of four years set by LILE, with the possibility to extend it for one more year. LILE provides the possibility for the company to carry out the restructuring process independently, for example, without the assistance of an insolvency administrator. After the company has implemented the approved restructuring plan and restored its solvency, the company can continue to operate successfully after having reduced or fully paid its debt to creditors.

In conclusion, the restructuring process may be beneficial to a company for the following reasons:

1. The company is granted temporary protection from its creditors. Such a company cannot have its assets seized, file for bankruptcy, and any penalties and interest are suspended for the company undergoing the restructuring process
2. Preserves an active market participant - an employer
3. During the restructuring process, creditors can recover more funds than during bankruptcy proceedings
4. In contrast to the opening of bankruptcy proceedings, the management bodies of the company do not lose their powers in the restructuring process and continue to participate in the management of the company together with the creditors
5. The company can resume its activities.



LAIMONAS MARKAUSKAS

ATTORNEY AT LAW,
PARTNER

+370 5 212 0033

LAIMONAS.MARKAUSKAS@NJORDLAW.LT