

# Czech Republic: Insolvency proceedings in relation to creditors from other Member States

The Insolvency Register is an information system where information regarding insolvency administrators, lists of debtors and insolvency files for individual debtors is stored. Creditors can use the Insolvency Register to discover whether their business partners are having difficulties or are in insolvency. Monitoring the Insolvency Register is crucial for creditors, as once bankruptcy of the debtor is declared, the timeframes within which creditors may register their claims are limited.

The Insolvency Court sets the deadline for filing registrations of creditors' claims pursuant to the Czech Insolvency Act. The deadline cannot be less than 30 days or longer than two months. The deadline starts from the date that the declaration of the debtor's bankruptcy is published in the Insolvency Register. In practice, the deadline is usually 30 days. Registrations filed after the expiration of the deadline will not be accepted and no consideration shall be given to additional receivables in the course of the insolvency proceedings. Insolvency proceedings are opened by having been commenced in the public Insolvency Register.

Many foreign creditors are unaware of this procedure for opening insolvency proceedings. Therefore, such creditors may face difficulties in connection with the start of the time limits within which they may register their claims.

The Supreme Court of the Czech Republic declared in its decision in 2008 that creditors from other Member States fall under a less strict regime. The time period within which creditors from other Member States may register their claims begins from the day that the creditors receive a

letter from the Insolvency Court (described below); not from the date that bankruptcy is published in the Insolvency Register.

The Czech Insolvency Act sets an obligation upon the Insolvency Court to inform "known creditors" who have their habitual residences, domiciles or registered offices in Member States (save for Denmark) of the opening of insolvency proceedings and of the declaration of bankruptcy of the debtor. "Known creditors" are creditors known to the Court at the time when insolvency proceedings were commenced in the Insolvency Register. As well as relevant Czech insolvency law provisions, the Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings is also directly applicable.

Each respective Insolvency Court shall provide the above mentioned information separately to each "known creditor" in the official language of the state where insolvency proceedings were opened. For these purposes, a special form bearing the heading "*Invitation to lodge a claim. Time limits to be observed*" in all of the official languages of the European Union shall be used. In particular, information on the time limits, the penalties laid down with regards to those time limits, and details of the authority empowered to accept lodging of claims shall be included in the form. Such a notice shall also provide creditors with information as to whether creditors' claims which are preferential, or secured in rem, need to be lodged or not.

The Czech Supreme Court also declared that in the event that the Insolvency Court fails to fulfill its duty and does not inform "known creditors" of the time limits for

lodging their claims, then the time limits do not start to run and "known creditors" may lodge their claims at any point during the entire insolvency proceedings. The Insolvency Court is not obliged to provide the above mentioned information to all "known creditors". It shall inform only those "known creditors" who had not yet lodged their claims by the time that insolvency proceedings commenced in the Insolvency Register.

The above described procedure shall not apply to (i) creditors who have their habitual residences, domiciles or registered offices outside Member States (or in Denmark) or to (ii) creditors who are not known to the Insolvency Court at the time when insolvency proceedings are commenced in the Insolvency Register. The Insolvency Court will not provide these creditors with either information on the opening of insolvency proceedings or an individual notice setting out the decision on the bankruptcy of the debtor. These creditors fall under the same regime as local creditors and should therefore check themselves whether commencement of insolvency proceedings, and the decision on the bankruptcy of the debtor, have been published in the Insolvency Register.

/

**Ivana Fára**

CMS Cameron McKenna v.o.s., Prague  
E [ivana.fara@cms-cmck.com](mailto:ivana.fara@cms-cmck.com)

**Pavel Dřimal**

CMS Cameron McKenna v.o.s., Prague  
E [pavel.drimal@cms-cmck.com](mailto:pavel.drimal@cms-cmck.com)