

ANSWERS TO THE TRONDHEIM QUESTIONNARY

1. Special laws are applied on insolvency proceedings in Lithuania. First of all, this is Lithuanian Republic Law on Enterprise Bankruptcy and Labour Code.
2. County courts are the first level courts for insolvency proceedings in Lithuania. However, insolvency proceedings may not proceed at court if there are no cases on such proceeding at court where an enterprise have got a claim for wealth or estate, also claims related to employment proceedings, and also if there still are not execution in consonance with writ for execution (issued by court).
All conflicts that are related to Employment Law and insolvency proceedings are dealt at such county court which judges the case of enterprise insolvency.
3. When a declaration of opening of insolvency proceedings is issued, the employment contracts are still in force and are not terminated automatically. During 3 days after court decision of opening of insolvency proceedings is stood, administrator of an enterprise warns in written form employees of the enterprise about termination of employment contract in future. Administrator terminates employment contract after 15 working days when such written warn was sent. Administration of an enterprise loses its authority after court decision of opening of insolvency proceedings is stood. Administrator of an enterprise terminates employment contracts of enterprise director and members of enterprise board after 15 days when written warns were sent to them.
One peculiarity exists when insolvency proceedings are not dealt at a court. In such case, administrator of an enterprise warns in written form employees of the enterprise about future termination of employment contract during 3 working days after meeting of creditors who decided insolvency proceedings did not execute at a court. Again, administrator terminates employment contract after 15 working days when such written warn was sent.
4. After employment contracts are terminated according to the way that was described above in 3, employees (who are dismissed) gets benefit of his (her) double average month payment. During 3 days after court decision of opening of insolvency proceedings is stood, administrator of an enterprise notify in writing the territorial labour exchange, the municipal institution and representatives of the enterprise's employees about employees' dismissals in future. Some of employees (if they agree) may make terminal contracts of employment to work during insolvency proceedings of enterprise. Number of such employees is determined by creditors in their meeting, and a list of such employees is made by administrator.
5. Any employee has a right to terminate terminal as well as termless employment contract after informing employer no less than 3 working days after such request is supplied if employer does not perform obligations according to employment contract. Besides, employee has a right to terminate employment contract if he (she) does not get all vested payment 2 months consecutively. Employment contract is terminated from the day that is indicated in the employee's request. Administrator of an insolvent enterprise only indicates in his notice that employment contracts are terminated because of enterprise bankruptcy. Dismissed employees get benefit of their double average month payment.
6. Lithuania Law on Enterprise Bankruptcy predicts that priority in fulfilling creditors' claims should be given to employees' claims connected with labor relations, and to claims of compensation for maiming or other physical injuries, as well as for the deprivation of life are fulfilled. Such things can be appreciated as preferences of employees of an insolvent enterprise in order their interests were protected as much as possible. Besides, employees of an enterprise can submit a court-claim to open insolvency proceedings for enterprise which does not pay salary and other working payments in time.
7. There is Guarantee Fund operating in Lithuania. Assets from the Guarantee Fund are allocated for payments to the employees of undertakings under bankruptcy or bankrupt undertakings, also employees of enterprises of EC or other Europe economic sphere (where insolvency proceedings are performed there according to the state's laws similar to that of Lithuania) who have terminated

employment relationships with such undertakings, as well as to the employees who continue employment relationships with an undertaking under bankruptcy when the undertaking is indebted to them.

Employees of insolvent or bankrupted enterprise can be paid from the Guarantee Fund the following payments connected with labor relations:

- 1) a wage in accordance with the claim of an employee, but not exceeding the amount of 3 average monthly wages of an employee during 18 months period from court decision to open insolvency proceedings or from creditors' meeting decision insolvency proceedings execute not at a court; when the sum of 3 average monthly wages is less than 3 minimal monthly wages, the maximum of this benefit is 3 minimal monthly wages;
- 2) cash compensation for an unused annual holiday – no bigger than 1 minimal monthly wage; 3) a severance pay in the amount of 2 minimal monthly wages;
- 4) lay-off payment – no more than minimal monthly wage.

Chief of enterprise administration and members of enterprise board do not get any benefits if their employment contracts were terminated because of insolvency proceedings.

8. Approved sum of claims of insolvent enterprise employees creditors is reduced by appropriate sum which was paid from Guarantee Fund. Administrator of Guarantee Fund gains a recourse right to this sum. Such claims of administrator are fulfilled according Lithuania Law on Enterprise Bankruptcy as second row creditors' claims.
9. After court decision of opening of insolvency proceedings is stood, calculation of all forfeits and interests of enterprise's obligations is terminated, therein also payments connected with labor relations, for overdue disbursement.
10. Law system of Lithuanian Republic has no particularities regarding employees' rights when the whole or part of an enterprise is transferred during an insolvency proceeding.
11. In the event of reduction in the number of employees or cessation of the operations of an enterprise in accordance with the procedure prescribed by laws, an employer must, within two months, notify in writing the territorial labour exchange, the municipal institution and representatives of the enterprise's employees when the employer intends to make redundant within 30 calendar days:
 - 1) ten and more employees where an enterprise employs up to 99 employees;
 - 2) over ten percent of employees where an enterprise employs 100 to 299 employees;
 - 3) 30 and more employees where an enterprise employs 300 and more employees.Intended employees' dismissals are counted within 30 calendar days continuous period despite year or month changes.
Employees are not counted into intended employees' dismissals number if they:
 - 1) are working under fixed-term employment contracts and seasonal employment contracts and contract terms are valid;
 - 2) terminate employment contract by their own will;
 - 3) are dismissed by employer's will but their own guilt;
 - 4) terminate employment contract because of their pension;
 - 5) work without employment contract.Employer's information about intended employees' dismissals, which is lent for employee's representatives, may be used for such purpose:
 - 1) to avoid employees' collective dismissals from their work;
 - 2) to reduce dismissed employee's number;
 - 3) to project means for dismissed employees employment or education.Provision about informing employee's representatives is not applied for enterprises that stop their existence according to the court decision.
Territorial labour exchange and municipal institution after supplied information about employees' dismissal start means of prevention in order to understate consequences of intended employees' dismissals.