

Cypriot Insolvency Publication and Registration Requirements and the Application of Article 21 and Article 22 of the European Insolvency Regulation

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1. What are the publication procedures in your jurisdiction for notice of the opening of insolvency proceedings?

Insolvency proceedings against an individual:

- The opening of insolvency proceedings must be published in the Official Gazette of the Republic of Cyprus and in two newspapers according to section 13 of the Bankruptcy Law (CAP 5).

Insolvency proceedings against a company:

- The opening of insolvency proceedings must be published in the Official Gazette of the Republic of Cyprus and in two newspapers according to the Companies rules 1933. In addition, under section 219 of the Companies Law (CAP 113) a copy of the court order opening insolvency proceedings must be filed with the Registrar of Companies by the company as soon as possible, or as the court may stipulate.

2. What should a liquidator from another member state do in practice to arrange publication in your jurisdiction of notice under Art 21(1)?

The Regulation states that it applies to insolvency proceedings where the debtor is a natural person or a legal person, a trader or an individual. Annex 'A' of the Regulation, as amended by the Implementing Regulation of the Council (EU) No. 210/2010, indicates that insolvency proceedings in Cyprus include the following:

- Winding up by the court;
- Creditor's voluntary liquidation following a court order;
- Winding up under the supervision of the court;
- Bankruptcy following a court order;
- Management of an insolvent estate of a deceased person;
- Members' voluntary liquidation – We do not understand why this is included in Annex A as members' voluntary liquidation is not an insolvency proceeding and the identical UK procedure is not included.

If a liquidator requests that notice of the judgment opening insolvency proceedings in a member state (and where appropriate the decision appointing him) be published in Cyprus

under Art. 21(1) of the Regulation, then as noted in question 1 above, the opening of insolvency proceedings (whether against a company or an individual) must be published in the Official Gazette of the Republic of Cyprus and in two newspapers.

Publishing a notice in the Official Gazette of the Republic of Cyprus:

A notice can be published in the Gazette by sending a notification to the Government Printing Office.

The notice must be in as follows:

- In Greek;
- Microsoft Word document, not pdf;
- Fonts must be Arial size 9;
- Paragraph spacing must be single;
- Fonts must not be bold or underlined;
- The top and bottom margin should be 2.3cm; and
- The left and right margin should be 2cm.

The notice must be accompanied by a covering letter which should indicate the address and person to whom the invoice should be sent. The covering letter and the notice should be sent by fax to +357 22303175 and by email to ndemetriou@gpomof.gov.cy.

If the notification is sent by 2:30 p.m. on the Monday preceding the publication of the Gazette, it will be included in the Official Gazette of the Friday of the same week.

Publishing a notice in a national newspaper:

There are several national newspapers, such as: Politis (<http://www.politis-news.com>), Haravgi (www.haravgi.com.cy), Simerini (<http://www.sigmalive.com/simerini>), Phileleftheros (<http://www.philenews.com/main/default.aspx>), Alitheia (www.alitheiaportal.com), where advertisements can be made. The cost of the advertisement depends on the size of the publication, but based on our experience it costs on average around EUR100 - 150.

Our firm can assist with the publications as it has good and long established business relationships and has set up direct debit accounts with the Official Gazette and most newspapers, which will speed up the process. In addition, most of the EU languages are spoken amongst our staff, which can assist with the translation of the notification.

3. If a debtor has an establishment in your jurisdiction, is it mandatory to publish there a notice of the opening of insolvency proceedings in another member state in accordance with Art. 21(2), and if so do the procedures vary from those described in 1) and 2) above?

We note that Art. 2 (h) of the Regulation, defines ‘establishment’ as: “any place of operations where the debtor carries out a non-transitory economic activity with human means and goods”. Having said that, there is no specific provision under Cyprus law requiring mandatory publication where a debtor has an establishment in Cyprus.

4. In what public registers (e.g. land register, trade register) in your jurisdiction may a judgment opening insolvency proceedings be registered?

A judgment opening insolvency proceedings must be filed with the Registrar of Companies in accordance with section 219 of CAP 113.

5. What should a liquidator from another member state do in practice to register in your jurisdiction a judgment opening main insolvency proceedings under Art 22(1)?

We note that insolvency proceedings relation to the winding up of insolvent companies or other legal persons are excluded from the scope of the 1968 Brussels Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters.

Nevertheless, Art. 16 of the Regulation states that: any judgment opening insolvency proceedings handed down by a court of a Member State which has jurisdiction pursuant to Art. 3 of the Regulation shall be recognised in all the other Member States from the time that it becomes effective in the State of the opening of proceedings. In the circumstances, please see question 2 above.

6. If a debtor has an establishment in your jurisdiction, is it mandatory to register there a notice of the opening of main insolvency proceedings in another member state in accordance with Art 22(2) and if so, do the procedures vary from those described in 4) and 5) above?

There is no specific provision under Cyprus law making it mandatory to register in Cyprus a notice of the opening of main insolvency proceedings in another member state in accordance with Art 22(2).