

# QUESTIONNAIRE ON LR RELATED ISSUES WITH REGARD TO THE PROPOSAL 2022/0408 FOR A NEW DIRECTIVE HARMONIZING CERTAIN ASPECTS OF INSOLVENCY LAW

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A proposal for a new Directive of the European Parliament and of the Council harmonizing certain aspects of insolvency law has been drafted and launched on December 7th 2022.

This Directive lays down common rules on:

- avoidance actions
- the tracing of assets belonging to the insolvency estate
- pre-pack proceedings
- the duty of directors to submit a request for the opening of insolvency proceedings
- simplified winding-up proceedings for microenterprises
- creditors' committees
- the drawing-up of a key information factsheet by Member States on certain elements of their national law on insolvency proceedings.

Regarding LR matters related to this topic, we have addresses you a questionnaire, in order to identify your national regulation about the new topics or modifications this Proposal of Directive has introduced, dealing with four blocks of matters:

- Avoidance actions and LR.
- Access of insolvency practitioners to LR information.
- Consent of holders of secured claims in winding-up proceedings (inside an insolvency proceeding) for the release of security interests, such as mortgages.
- Cross-border insolvency proceedings.

 Austria

 Bulgaria

 Croatia

 Estonia

 Finland

 Ireland

 Italy Agenzia delle Entrate

 Italy Servizio del Libro Fondiario de Trento

 Latvia

 Malta

 Poland

 Portugal

 Slovak Republic

 Spain

 Sweden

**1.a. Is there a regulation of avoidance actions of acts perfected to the detriment of the general body of creditors just before the opening of an insolvency proceeding?**

**1.b. If yes, would a proprietor of an immovable who has entered the property right in the LR be protected against these avoidance actions?**

- Almost all members answer that there are avoidance actions of these kind of acts.
- Difference between transfer for consideration/donation
- Period: from 3 months to 10 years prior the opening of the insolvency proceeding. Time to enter the action.
- Good faith/knowledge of the insolvency

**2.a. In your national systems, do insolvency practitioners have a special access to the Land Register or they are subject to the general rules of access? Have they a direct access to the Land Register?**

**2.b. Would an insolvency practitioner be allowed to access the list or index of properties a person has in the Land Register? Would it be different in the case of legal persons and natural persons?**

- In general: no special access for insolvency practitioners to LR.
- They can have access to a list of assets belonging to the debtor.
- No differences between natural and legal persons (GDPR)

**In your national system, is the consent of holders of secured claims in winding-up proceedings (inside an insolvency proceeding) for the release of security interests, such as mortgages?**

- Almost in most systems the consent of the holder is needed to realease the security.
- Particular cases: PT, POL, SVK, ITA, IRL
- Pre-packages: majorities

**4.1. Have you encountered in your legal land register practice any case of cross-border insolvency proceeding?**

**4.2. Have you encountered in your legal land register practice any case of foreclosure regarding an immovable whose owner is involved in an insolvency proceeding in a different State?**

- In general, members do not have had such experiences for the moment.
- Only FIN, SWE and SVK rapport cases of foreign insolvency proceedings involving national immovables.



Thank you