

## Bankruptcy proceedings in Germany

1. There are different possibilities to achieve information about pending bankruptcy proceedings. We can check our databases very fast if a debtor or a creditor of him has still filed for bankruptcy proceedings. Often the client himself received notice by the debtor himself or receipt of an information of the administrator. Sometimes it takes days that the order of the bankruptcy court will be published in the databases.

In debt collection proceedings we regularly check if the debtor is still in bankruptcy proceedings.

2. In case of pending bankruptcy proceedings it makes less sense to proceed in collecting the debt out of court and it is not possible anymore to proceed in court proceedings. Court proceedings would be interrupted by law and court order until the end of bankruptcy proceedings.

The court regularly orders that enforcement in assets of the debtor is not possible anymore until the court decides to open bankruptcy or to dismiss the application.

3. The bankruptcy court will appoint an attorney as the receiver/administrator in bankruptcy. The administrator is leading proceedings and he has the competence to decide in all matters concerning developments in business and future legal form and existence of the debtor's company.

The administrator scrutinises the claims in detail und he has to approve them in legal regulated procedures. The ascertainment of the claim by the administrator has the same effect as a judgement.

The major task of the administrator is to assess the financial standing of the company and to continue business if possible. If it is not possible the company is to be commercialised resp. liquidated.

4. **preliminary bankruptcy proceedings:** The bankruptcy court can firstly appoint an attorney as a preliminary receiver/administrator in bankruptcy. The administrator has to check first if there are sufficient assets to cover costs of bankruptcy proceedings itself (costs and fees of the bankruptcy court and the administrator). If the assets are not sufficient the company will be deleted from the commercial register otherwise the court will open bankruptcy proceedings.

5. At the end of proceedings the creditors will eventually achieve a rate (quota) of their claim related to the funds and assets still available, whereas according to experience the rate is very small (to average 1-5% of the debt in Germany).

6. All creditors will be asked to file their claims to the creditor's list. The time for filing the

application is a non-prolongable cut-off period. It is necessary to file a proof of debt to the receiver in bankruptcy (to file the claim to the list of creditors' claims) within this time period.

7. If the administrator approves the debt we will receive the acknowledgement of the claim stated by the court (extract from the insolvency chart). Please note that it does not mean immediate payment of any amount. The administrator has to set off all assets and credits of the debtor's business and we have to wait for his reaction (payment of a quota and the amount of the quota). It can take weeks or months.

If the administrator rejects or contests the claim we will be informed by the court as well. The client has to decide to take legal action against the administrator that he has to acknowledge the claim.

8. Please inform us immediately if we shall file your claim to the creditor's list.

To assert the claim in bankruptcy proceedings we urgently need all relevant documents:

- the invoices, delivery notes, credit notes, copies are sufficient,
- a Power of Attorney (PoA)

A special proxy (POA) is needed in order to entitle us to file the claim for the client.

We need the form send by mail (original) by e-mail in advance. Please fill and undersign the form.

9. Because the debtor is legally not obliged to pay any fees in bankruptcy proceedings we have to charge for our fees. For working on the file we regularly charge a retainer fee of 350,00 - 450,00 EUR. Supplementary fees (to a less amount) will be charged if further activities apart from filing and conducting the claim until the end of proceedings (payout of rates) become necessary.

Please note that bankruptcy proceedings often last several years but that the possibility of receiving any payment should not be omitted.

10. Please note that theoretically a creditor can claim the return of the goods against the administrator if a lien, a security interest and especially a retention of title (ownership) is agreed between the parties of contract (contract, agreement, order..).

Please check your documents. If a retention of title is agreed you can contact the administrator directly and claim for release of your goods (the request must be specified very detailed and proved by documents).

We would like to add that in nearly all cases of bankruptcy proceedings the department of public prosecution will be informed and scrutinize the case (fraudulent bankruptcy proceedings).

Anyway, we will keep you informed about all news.

We recommend to check your debtor and offer different information:

- check of pending bankruptcy proceedings (30,00 EUR)
- check of postal address and residence of the debtor by addressCheck (20,00 Euro)
- check of list of debtors at court (10,00 EUR)
- credit check for individuals (40,00 EUR)
- credit report for companies (60,00 EUR)

payment by PayPal is possible!

We co-operate with SCHUFA, the most important credit-report provider and rating agency in Germany!

Please do not hesitate to contact us if you have further questions.

Kind regards

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