

TRONDHEIM QUESTIONNARY

1. Are there any specific regulation on insolvency proceedings?

Yes, insolvency is regulated with the Law of Prosecution of Debts and of Bankruptcies (Schuldbetreibungs- und Konkursgesetz)

2. Which institutions (government agencies, courts, etc.) are in charge of insolvency proceedings generally and which institutions are in charge of the resolution of conflicts related to employment Law.

**insolvency: dept enforcement agencies, courts
employment law: courts**

3. When a declaration of opening of an insolvency proceeding is issued, are the employment contracts considered automatically terminated or are they still in force?

Even when a declaration of opening of an insolvency proceeding is issued, the employment contracts are not automatically terminated, but remain in force. If the employer becomes insolvent, then the employee can dissolve the employer-employee relationship without notice, if for its demands from the employer-employee relationship within appropriate period security is not granted.

4. When an employment termination automatically occurs due to the opening of the insolvency proceedings, what benefit or severance could the workers be entitled to as a consequence?

Claims of workers are first class claims (first class claims must be paid first)

5. Is there any chance to terminate the employment contract of one or more employees once the opening of the insolvency proceedings already occurred? What reason is considered fair in order to allow the administrator of the insolvency proceedings to terminate the employment contracts? Is the employee entitled to any benefit or severance?

The normal rules about dismissal take place. If the employer is insolvent, and can't give securities for outstanding money, the employee is entitled to resign.

6. What privileges or preferences, if any, are granted to employment credits?

Claims of workers are first class claims (first class claims must be paid first)

7. Is there a guarantee institution that takes charge of the debts unpaid by the insolvent employer and to what extent?

There is a social insurance solution.

8. Is the guarantee institution subrogated in the rights and/or privileges granted to the worker, and may claim for them during the insolvency proceedings?

No (except liability claims against the responsible persons).

9. What's other effect has the insolvency proceeding on the employment relationship?

None.

10. When the whole or part of the enterprise is transferred during an insolvency proceeding, is there any particularity regarding the employees' rights?

Yes. The general rule regarding transferring of enterprises says that the employee has the right to resign. The employer has to inform the employees a.o. about the reasons and the consequences of the transfer.

11. Are there specific regulations protecting employees if an enterprise is shut down or if there are mass dismissals? Describe them.

Yes. The Employer has to consult the employees and to inform them a.o. about the reasons for the mass dismissal, the number of employees involved, and when the dismissal will take place. The employees must be given the possibility to make suggestion for preventing the mass dismissal. The employer has to inform the agency for employment of the canton and this agency has the task to look for solutions.