

**The limited rights of the owners, in the light of the powers of a liquidator in connection with the assets**

**The Curia has decided in a recent decision that the change of the registered seat is a decision regarding the assets of the owner, which can be made by the liquidator rather than the owner of the company under liquidation.**

In decision No. BH2017.305 of the Curia stated that the powers for making decision of the owners of the company under liquidation is limited, regarding the requirement for completion of the liquidation within a reasonable time specified in Section 46 (2) of the Bankruptcy Act and regarding that the liquidator is only entitled to make a statement in connection with the assets of the debtor under Section 34(2) of the Bankruptcy Act.

If a company is not under liquidation, the owners may decide on the change of the registered seat. The most essential consequence of instituting the liquidation is that the powers of the manager of the debtor in connection with the assets are terminated, the liquidator may only act lawfully, the liquidator may only make statement in connection with the assets.

In the referenced decision, the main question to be decided was that the change of the registered seat is a decision affecting the assets of the debtor, which may only be made by the liquidator or which can or must be decided by the owners?

It is obvious under the previous practice that the owners still have the powers recorded in the Bankruptcy Act (e.g. right for entering into a composition agreement, right to submit an objection, or the right regarding the assets remaining after the satisfaction of the creditors' claims). The owners and the previous executive officers still have the rights, which relate to the inner management of the economic operator under the liquidation. Under the liquidation, of course, the owners may decide on, for example, the sale of their quota in the company, thus the liquidation does not affect their assets rather than the assets of the company.

In order to answer the question, the Curia sets out from the purpose of the Bankruptcy Act according to which the purpose is to satisfy the creditors in a regulated way and to finish the liquidation within a reasonable time. The Curia concluded that the place of the registered seat may influence the efficient operation of the liquidator.



According to the position of the Curia, the liquidator, as referred to in Section 34 (2) of the Bankruptcy Act, is entitled to decide on these real properties; this decision effects on the assets of the economic operator, thus the general meeting, the resolution-making of the management do not have the precondition of the decision.

According to the legal position of the Curia, therefore the amendment of the statutes regarding the relocation of the registered seat falls within the powers of the liquidator in order that the public company registry reflects on the facts.