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Finland: Rescue procedures in insolvency

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Finland

Phase:

Management

Type:

Rescue procedures in insolvency

Last modified: 10 December, 2021

Native name:

Konkurssilaki (120/2004); Laki yrityksen saneerauksesta (47/1993); Laki yksityishenkilön velkajärjestelystä (57/1993)

English name:

Bankruptcy act (120/2004); Restructuring of enterprises act (47/1993); Act on the adjustment of the debts of a private individual (57/1993)

Article

Whole regulations (Bankruptcy act (120/2004); Restructuring of enterprises act (47/1993); Act on the adjustment of the debts of a private individual (57/1993))

Description

The Finnish judicial system recognises three types of insolvency. These are bankruptcy (konkurssi), reorganisation of an undertaking (yrittysaneeraus), and adjustment of the debts of a private individual (yksityishenkilön velkajärjestely). For companies and other legal entities attempting to avoid bankruptcy, the proceeding known as reorganisation is the only option, as the adjustment of debts proceeding is reserved for natural persons.

The general requirement for being able to initiate reorganisation proceedings is the same as for the other types of insolvency, which is that the debtor must be insolvent (maksukyvytön). However, under special circumstances, the debtor being in jeopardy of insolvency may warrant the commencement of the proceedings. Reorganisation can also be initiated through a joint application submitted by the debtor and two creditors, who together have a claim on a minimum of 20% of the debtor's debts.

Reorganisation is generally available to any kind of company, except for certain companies subject to stricter regulation, such as financial institutions. Both the debtor and the creditor have the authority to apply for the commencement of the proceedings. If it is clear that a reorganisation will not be enough to save the company, or if it is considered that the debtor will not be able to cover the costs resulting from the proceedings, the application for reorganisation can be rejected.

A liquidator is appointed by the court to supervise the debtor's business operations and compose a proposal for the planned reorganisation, which is then approved by the court. The debtor has the right to make suggestions about the reorganisation programme. The court can also appoint a committee of creditors to assist the liquidator, which also have a right to comment on the programme. However, the committee of creditors is only appointed if there is an explicit need for one. If the company regularly employs 50 people or more, the employment authorities may appoint a representative as a non-voting member to the committee of creditors.

The liquidator's remuneration is paid by the company (employer) being reorganised. The company is also responsible for any costs incurred during the reorganisation. Members of the committee of creditors are remunerated by the creditors in question, unless otherwise agreed.

The reorganisation programme can cover things such as the adjustment of debts and a transfer of the undertaking, as well as changes to staff arrangements, management, and operational activities. There is no set expiry date for a reorganisation programme: the programme is in effect until the obligations have been met. The debtor is freed from paying any debts that exceed the amount specified in the programme if he/she fulfils his/her obligations. If the debtor significantly fails to comply with the programme, or if the debtor is declared bankrupt, the reorganisation proceedings are terminated.

Comments

The following numbers of reorganisation proceedings were filed in the last seven years, according to Statistics Finland.

- 2020: 336
- 2019: 366
- 2018: 408
- 2017: 427
- 2016: 440

- 2015: 494
- 2014: 511

According to an expert estimate, companies generally seek reorganisation too late, submit inadequate applications, and expect too much from the procedure. Approximately one-third of the applications are approved by the court, and only around half of the approved companies succeed in the reorganisation.

Cost covered by

Employer

Involved actors other than national government

Other









Involvement others

Court, creditors

Thresholds

No, applicable in all circumstances

Sources

-  Restructuring of Enterprises Act (47/1993)
-  Laki yrityksen saneerauksesta (47/1993)
-  Bankruptcy Act (120/2004)
-  Konkurssilaki (120/2004)
-  Act on the Adjustment of the Debts of a Private Individual (57/1993)
-  Laki yksityishenkilön velkajärjestelystä (57/1993)
-  Y. Tuokko, 'Viivyttely on yrityssaneerauksen tuho', in Taloussanomat, 9 October 2014
-  Statistics Finland (2021), Business Restructuring Proceedings

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