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Norway: Rescue procedures in insolvency

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Norway

Phase:

Type:

Management

Rescue procedures in insolvency

Last modified: 12 July, 2021

Native name:

Konkursloven; Dekningsloven

English name:

Bankruptcy act; Debt recovery act

Article

1-59 (Bankruptcy act); 1-1 – 2-14, 7-1 – 7-9, 7-12 – 7-13, 9-2 (Debt recovery act)

Description

The Norwegian regulatory system distinguishes between voluntary debt settlement proceedings ('frivillig gjeldsordning') and compulsory debt settlement proceedings ('tvangsakkord'). These are governed by the bankruptcy act ('konkursloven') and the debt recovery act ('dekningsloven'), both enacted in 1984. The aim of these statutes is to make sure that a company that is (or might become) insolvent reaches a debt settlement scheme with the creditors.

The debtor presents a petition to the court to initiate debt settlement proceedings. The petition is to include the following:

- a statement regarding the reasons behind the financial difficulties, and how the debt is to be settled;
- an inventory of the debtor's assets, debts, creditors and security as well as the name and address of the creditor;
- a statement regarding the registration and documentation of the debtor's accounts.

In addition, the debtor has to supply the court with any supplementary documentation the court asks for. Once the court approves the petition, a public announcement of this will be made.

In order for the permission to be granted, the debtor must be unable to pay its obligations as they fall due, and the court must judge it likely that either voluntary or compulsory debt settlement will prove to be successful in the debtor's case.

In the event of a voluntary debt settlement, all unsecured creditors must consent to the debt settlement proposal being put forward. The proposal is only binding for those creditors who have voted for it or are not affected by it.

In the event of a compulsory debt settlement, at least 75% of the creditors who are holding at least 75% of the outstanding debt must approve the proposal if the proposal consists of paying less than 50% of the debt. If at least 50% is being paid, a 3/5 majority is sufficient. Compulsory debt settlement proceedings are binding for all creditors except for creditors with priority claims, secured claims (as long as the claims do not surpass the secured asset's expected value), and claims that can be used as a set-off against the company's counterclaim (as long as the claims do not surpass the counterclaim).

During debt settlement proceedings, the court supervises the company through a creditor committee, which is elected by the court. The creditor committee consists of a lawyer (who acts as head of the committee), one to three creditors, and an employee representative (if a request for this is made by a majority of the employees). The creditor committee aides the debtor in coming up with the debt settlement proposal.

The aim of debt settlement proceedings is to reach an agreement between the debtor and the creditors regarding the reduction of debts so that the debt can be paid without the company defaulting. If no agreement is reached within six months, or if the court decides not to implement the proposal, the court will initiate insolvency proceedings.

Comments

In practice, debt settlement proceedings are only used in a limited set of circumstances and there is no data available on settlements that have been successful in reaching their objectives. According to [KPMG](#), one reason for the limited use is that the economy in most companies, at the time of such proceedings, is too pressed, making it difficult to find a solution with the creditors. This is due to the entry conditions for entering into such proceedings being that the company is illiquid. However, some settlements are reached outside the courtrooms, especially if few creditors are involved.

Cost covered by

Not applicable

Involved actors other than national government

Other






Involvement others

Court, creditors

Thresholds

No, applicable in all circumstances

Sources

-  [Restructuring and insolvency in Norway: overview](#)
-  [Konkursloven](#)
-  [Bankruptcy act](#)
-  [Dekningsloven](#)
-  [Rekonstruksjonsloven](#)

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