



Fall | 24



INTERNATIONAL LAWYERS NETWORK



FENNO ATTORNEYS AT LAW

Bankruptcy, Insolvency & Rehabilitation Proceedings in Finland

ILN RESTRUCTURING & INSOLVENCY GROUP



This guide offers an overview of legal aspects of bankruptcy, insolvency and rehabilitation in the requisite jurisdictions. It is meant as an introduction to these marketplaces and does not offer specific legal advice. This information is not intended to create, and receipt of it does not constitute, an attorney-client relationship, or its equivalent in the requisite jurisdiction.

Neither the International Lawyers Network or its employees, nor any of the contributing law firms or their partners or employees accepts any liability for anything contained in this guide or to any reader who relies on its content. Before concrete actions or decisions are taken, the reader should seek specific legal advice. The contributing member firms of the International Lawyers Network can advise in relation to questions regarding this guide in their respective jurisdictions and look forward to assisting. Please do not, however, share any confidential information with a member firm without first contacting that firm.

This guide describes the law in force in the requisite jurisdictions at the dates of preparation. This may have been some time ago and the reader should bear in mind that statutes, regulations, and rules are subject to change. No duty to update information is assumed by the ILN, its member firms, or the authors of this guide.

The information in this guide may be considered legal advertising.

Each contributing law firm is the owner of the copyright in its contribution. All rights reserved.



KEY FACTS OF BANKRUPTCY, INSOLVENCY & REHABILITATION PROCEEDINGS UNDER FINNISH LAW

In Finland, insolvency legislation provides for two distinct statutory processes: bankruptcy and corporate restructuring, each with separate proceedings. Both proceedings are briefly summarized in this text.

Corporate Restructuring in Finland

The purpose of restructuring is to rehabilitate the viable parts of a business, facilitate their operation, and enable debt adjustment. Corporate restructuring in Finland can be conducted through formal legal proceedings or out-of-court processes.

As is common in other countries, in Finland, voluntary out-of-court proceedings are typically used by large companies. In the SME sector, formal restructuring proceedings based on legal statutes are more popular. This text focuses on formal corporate restructuring proceedings in Finland.

Three Steps of the Process

Corporate restructuring in Finland is divided into three steps:

1. Application
2. Restructuring Proceedings
3. Restructuring Programme

1. Application

The corporate restructuring process in Finland begins when the debtor or a creditor files an application for restructuring with a district court. The decision to initiate a corporate restructuring process is made by the district court that has jurisdiction over the debtor's general administration. The court will hear the largest creditors regarding the application, and any objections must be justified with barriers based on the Finnish Restructuring Act.

Under the restructuring proceedings, restructuring debts are defined as those existing on the day the application is filed with the district court. Debts incurred before that date are considered restructuring debts. Once the application has been filed, the company can apply for a court order to protect it from debt collection actions. Initiating debt collection after the debtor has filed for restructuring is generally futile and may result in additional costs for the creditor.

Since corporate restructuring in Finland is legally mandated, the court almost always appoints an administrator to oversee the proceedings. In nearly every case, the appointed administrator is an attorney.

2. Restructuring Proceedings

The administrator's role is to monitor and supervise the debtor's activities during the restructuring proceedings, as well as to audit the debtor's activities prior to the proceedings.

The administrator is responsible for taking action if illegal activities are discovered or if the company starts incurring debts again and is unable to pay debts incurred after the filing of the application. In such cases, the administrator will file an application with the court to terminate the restructuring proceedings.

If it appears that the restructuring proceedings can continue, the administrator prepares a report on the debtor's assets, liabilities, and other obligations, as well as the circumstances affecting the debtor's financial position. This report is sent to all known creditors by the administrator. The report is typically written in Finnish, but the administrator can usually provide a translation or summary in English if needed.



At the end of the proceedings, the administrator prepares a draft of the restructuring programme. This programme is based on the debtor's financial projections. In larger companies, the proceedings and programme may focus on a real business turnaround, including changes in the company's strategy, management etc.

It is common for unsecured debts to be haircut by tens of percents. Secured debts cannot be reduced. The typical duration for the payment programme is between five to eight years.

The restructuring proceedings conclude with a voting procedure on the proposed restructuring programme. Creditors can either accept or reject the proposed programme in the vote. If the programme receives majority approval in each group of participating creditors, it is approved by the district court.

In Finnish restructuring proceedings, debt conversion is rare, so it is common for the company's shareholders to retain full ownership after restructuring.

3. Restructuring Programme

The district court appoints a supervisor to monitor the implementation of the restructuring programme. The company is responsible for reporting to the supervisor on the programme's implementation and the company's financial statements.

Once the restructuring programme has been approved, the debtor is required to adhere to the payment schedule outlined in the programme. If the debtor fails to comply with the payment schedule, creditors have the right to request that the district court annul the programme. Upon annulment, creditors regain the right to initiate debt collection.

Creditors should be aware that very rarely do companies fully succeed in implementing the

restructuring programme. Unfortunately, most restructuring proceedings fail at some point during the three steps outlined above.

Bankruptcy proceedings in Finland

Bankruptcy proceedings in Finland are initiated when a debtor is unable to meet its financial obligations on time, leading to insolvency. The process can be instigated either by the debtor themselves or by a creditor. In Finland, creditors are not liable to cover the costs of proceedings, other than application fee, if there are no current assets in the bankruptcy estate.

A district court, where the debtor's center of main interest is located, has jurisdiction for making the decision to declare bankruptcy. Once declared, the court appoints an impartial administrator to manage the bankruptcy estate. This administrator, known as "pesähoitaja" in Finnish, is typically an attorney and plays a crucial role in overseeing the affairs of the debtor and ensuring the fair distribution of assets to creditors. It's essential that the administrator maintains neutrality and effectively communicates with all stakeholders throughout the process. In Finland, administrators of bankruptcy estates are supervised by the Bankruptcy Ombudsman, and as they are usually attorneys, also by the Finnish Bar Association.

Employees

Employments are usually terminated by the administrator at the beginning of the proceedings. The termination period for employment agreements under bankruptcy proceedings is 14 days. Employees of the bankrupt company have the right to their unpaid salaries and other employment-related costs through Pay Security. The process for Pay Security is usually handled by the bankruptcy estate in cooperation with the authorities.



Creditors meetings

In the bankruptcy estate, decisions concerning the matters of proceedings, such as the liquidation of assets, are usually made by creditors in creditors' meetings. Creditors meetings are convened and facilitated by the administrator, providing creditors with the opportunity to decide on significant matters related to the bankruptcy estate. While attendance at these meetings is not mandatory, it is conventionally advisable to participate to safeguard creditor interests. These meetings are primarily conducted in Finnish, emphasizing the importance of early contact with the administrator or local attorneys for guidance on navigating the meeting. In addition to the creditors' meetings, it is also common for decisions to be made in a more informal procedure where the administrator hears the largest creditors of the estate in written form via email or mail.

Lodgement of claims

Creditors must file lodgement letters of their claims with the administrator by the specified deadline, which is called the lodgement date. The lodgement date is announced to the creditors by the administrator. These claims are then included in the disbursement list, which is subject to approval by the district court. Creditors whose claims are listed in the disbursement list, and which are then approved by the court, receive disbursements from the bankruptcy estate's assets. Failing to lodge a claim by the lodgement date leads to an obligation to pay a lodgement fee or even the loss of the whole claim.

Duration of bankruptcy proceedings

Bankruptcy proceedings in Finland typically last from one and a half year to three years, with various factors such as the complexity of asset liquidation and ongoing court cases potentially

extending the duration. Disbursements are usually paid to the creditors at the end of the proceedings, which is important to take into account.