

France

Rescue procedures in insolvency

Phase	Companies' rescues law, Commercial Code
Native name	Sauvegarde des entreprises , Code Du Commerce
Type	Rescue procedures in insolvency
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Article

Commercial code, article L611-3 (ad-hoc procedure); Commercial code, article L611-1 to L611-16 (procédure de conciliation); Commercial code, articles L628-1 à L628-8 (procédure de sauvegarde accélérée); Commercial code, articles L620-1 to L627-4 (procédure de sauvegarde); Commercial code, articles L631-1 to L631-22 (redressement judiciaire).

Description

There are 4 possible paths that can be followed if a company is in financial difficulty: mandat ad-hoc, sauvegarde, conciliation and redressement judiciaire. The choice depends on the financial situation the company is facing.

Procedure de mandat ad-hoc (ad-hoc procedure): This is open to companies where there are some financial difficulties but still fully operational. The court appoints a legal representative who assists the company's CEO but does not take its place. The procedure can be stopped at any moment if the company thinks the procedure reached its goal.

Safeguard procedures (procédure de sauvegarde): This is open to companies approaching a situation where they will have to stop payments. The safeguard procedure can be triggered by the CEO upon reaching the first serious set of difficulties. Unlike conciliation, it is a real judicial procedure that is publicised: the opening judgement is mentioned in the commercial register or in the trades directory and published in the Official Bulletin of Civil and Commercial Announcements (Bodacc) and in a legal notice journal. It lasts 6 months at the maximum. Once there is a plan in place, the tribunal can stop the safeguard procedure and ask the company to enact the plan. The plan might entail the closure or sale of certain

activities. The duration of the plan cannot exceed a 10 years' timeline. Moreover, if the company has more than 150 workers and/or a total turnover of more than €20 million, creditors are represented by two committees: one which represents the credit institutes and one that represents the suppliers.

Conciliation: If a company is in a situation where payments have stopped for less than 45 days, the tribunal can start a conciliation procedure upon request of the CEO. The company has to present a full report on its credits and debts, its securities and obligations, its annual reports for the past 3 years, a presentation of the financial situation highlighting difficulties and financial support needs. The company must also present a document containing reflections and an initial assessment on the situation and a way forward to improve the situation. The conciliation procedure aims at reaching a friendly agreement between the company and its creditors. The tribunal can proceed with a 'simple order' to stamp the agreement and its details are kept confidential by the parties. Otherwise an 'approval' procedure can be enacted by the tribunal and in this case the case is made public (with the aim of offering more guaranties to the creditors).Judicial reorganisation proceeding (redressement judiciaire): this is the final step that can be taken to rescue a company. It includes cases where the criteria for the previous steps are not applicable and the company has stopped its payments for longer than 45 days. Under the law, the call for a 'redressement judiciaire' can be done by the company or by a creditor. In this case the tribunal announces the opening of reorganisation and liquidation. Then, the CEO is assisted by a legal representative whose mandate is to make sure that creditors' demands are satisfied. The court may also appoint a judicial administrator (required if the company has more than 20 employees and more than €3 million of revenues), whose mission is to assist the CEO for some or all acts of management. The procedure can last for a maximum of 18 months after which there are two possible solutions: repay the debts and implement a continuation of activities plan; or, if debt cannot be repaid, an external buyer can be sought or liquidation of assets can be implemented.

Commentary

[The French National Institute of Statistics and Economic Studies](#) provides data on business insolvencies dating from January 2000.

Additional metadata

Cost covered by Employer

Involved actors other than national government	Other Court
Involvement (others)	Creditors
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

Sources

- [Loi n° 2005-845 du 26 juillet 2005 de sauvegarde des entreprises](#)~~~ [Commercial code, article L611-3, procédure de mandat ad-hoc](#)~~~ [Commercial code, article L611-1 to L611-16 \(procédure de conciliation\)](#)~~~ [Commercial code, articles L620-1 to L627-4 \(procédure de sauvegarde\)](#)~~~ [Commercial code, articles L631-1 to L631-22 \(redressement judiciaire\)](#)~~~ [AGS \(2023\), Les Chiffres AGS n° 43, 3e trimestre 2023](#)~~~ [AGS \(2023\) Rapport d'activité 2022](#)~~~ [Governmental website, Service-public.fr, Redressement judiciaire d'une société](#)~~~ [Governmental website, Service-public.fr, Mandat ad hoc](#)~~~ [Governmental website, Service-Public.fr, Procédure de conciliation](#)~~~ [Governmental website, Service-Public.fr, Procédure de sauvegarde](#)~~~ [Ministry of Economy website, Qu'est-ce que le redressement judiciaire?](#)~~~ [Commercial code, articles L628-1 à L628-8 \(procédure de sauvegarde accélérée\)](#)~~~ [Ministère de la justice \(2022\), Références statistiques justice, 9. Les Entreprises en difficulté](#)~~~

Citation

Eurofound (2016), France: Rescue procedures in insolvency, Restructuring legislation database, Dublin