

Luxembourg

Rescue procedures in insolvency

Phase	Commercial Code
Native name	Code du Commerce
Type	Rescue procedures in insolvency
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Article

Concordat préventif de faillite/Scheme of composition with creditors and Sursis de paiement/Suspension of payments (Commercial code, articles 593 to 614); Labour Code, Art.L.414-4 (3); Gestion contrôlée /Controlled management (Loi du 27 mai 2016).

Description

Three main options exist in Luxembourg other than bankruptcy to govern restructuring: controlled management, suspension of payments, and a 'scheme of composition' with creditors to avoid bankruptcy.

- A scheme of composition (concordat préventif de faillite) is a protective measure that enables employers or commercial companies in financial difficulty to come to an arrangement with their creditors and to avoid being declared bankrupt. The scheme of composition must be accepted by the court and the creditors. As is the case for a suspension of payments, seeking a composition is a long and complex procedure involving a large number of parties (tribunal, judge, creditors).
- By requesting to be placed under controlled management (mise sous gestion contrôlée), an employer who is temporarily in difficulty can avoid bankruptcy or an immediate cessation of business and also avoid the drawbacks of a suspension of payments or a scheme of composition with creditors. The employer places the management of the assets under the control of one or more administrators (commissaires) in order to restructure the business or sell the assets under the best possible conditions. However, this procedure is not used often in practice.

- The suspension of payments represents an alternative to bankruptcy. It enables an employer to deal with temporary financial difficulties by authorising the employer to suspend his payments to creditors for a given period of time. However, it does not rule out a declaration of bankruptcy in the event that the business meets the conditions for bankruptcy.

The new 2023 legal framework is based on a series of changes to the insolvency procedure. Among these figures for example the creation of a new "detection cell" at the level of the Ministry of the Economy whose aim it is to evaluate company risks and contact the employer to obtain information about the state of affairs of the company. The law also stipulates the creation of an inter-ministerial unit to evaluate companies in difficulties.

The employee representatives must be informed if the employer intends to opt for such options, in the framework of the general obligation to information and consult the staff delegation, on the situation, structure and probable development of employment within the company as well as any anticipatory measures envisaged, in particular in the event of a threat to employment.

Commentary

To access the latest data on insolvencies in Luxembourg, visit [STATEC](#).

Additional metadata

Cost covered by	None
Involved actors other than national government	Employer organisation Trade union Works council National government Court
Involvement (others)	None
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

Sources

- [Guichet.lu \(governmental website\) - Alternatives to bankruptcy \(English\)](#)~~~ [Guichet.lu \(governmental website\) - Alternatives à la faillite \(French\)](#)~~~ [Arrêté grand-ducal du 24](#)

[mai 1935 complétant la législation relative aux sursis de paiement, au concordat préventif de la faillite et à la faillite par l'institution du régime de la gestion contrôlée](#)~~~
[Commercial code/Code du commerce](#)~~~ [Civil code/Code civil](#)~~~ [Labour code, article L. 414-4 \(3\)](#)~~~ [STATEC. Faillites et liquidations en hausse au 1er trimestre 2023. April 2023.](#)~~~ [Loi du 7 août 2023 relative à la préservation des entreprises et portant modernisation du droit de la faillite.](#)~~~

Citation

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