

Slovenia

Rescue procedures in insolvency

Phase	Financial Operations, Insolvency Proceedings and Compulsory Winding-up Act (ZFPPIPP)
Native name	Zakon o finančnem poslovanju, postopkih zaradi insolventnosti in prisilnem prenehanju (ZFPPIPP)
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Description

The process of preventive restructuring can be applied to debtors – small, medium and large companies (i.e. to companies with more than 10 employees) which are deemed at risk of becoming insolvent within a one year timeframe. The intention of the preventive restructuring procedure is to enable the debtor who may become insolvent within a period of one year to carry out appropriate measures aimed at restructuring its financial liabilities and other part of its business necessary to eliminate the causes of eventual future insolvency. The procedure can only be started by the company on the basis of a restructuring plan, agreed on by at least 30% of the creditors (holding at least 30% aggregate value of financial claims listed in the debtor's list of financial claims and certified by an auditor).

The restructuring plan has to include:

- restructuring measures, timetable and other conditions for restructuring the company's financial liabilities and other parts of the business to avert insolvency,
- other mutual rights and obligations regarding the financial restructuring,
- debtor's list of financial claims, certified by an auditor.

At least 30% of the creditors can demand the refusal of a restructuring plan. The court decides upon the commencement of a preventive restructuring proceeding within eight days. There is no appointed administrator in this process. During the preventive restructuring proceeding a standstill applies for the claims of creditors.

The procedure of preventive restructuring is not allowed:

1. if it is filed before the expiration of two years from the date when the earlier preventive restructuring was concluded,
2. if the debtor is a subject of a compulsory settlement proceeding,
3. if it is filed before the expiration of two years from the date when the debtor fulfilled all obligations from the previous compulsory settlement, or
4. if the debtor is a subject of a bankruptcy proceeding.

However, exceptions apply to cases 1 and 3 if 75% of creditors agree to join the preventive restructuring procedure.

The company has to present an 'master restructuring agreement' within three months (for small and medium-sized companies) or five months (for large companies) agreed on by at least 75% of all creditors unless the restructuring plan stipulates a higher quota. This period can be extended for two or three months respectively. Debtor and creditors may freely agree on whatever measures enacted in the agreement, but finally the agreement must be approved by a certified auditor. The court's confirmation of the 'master restructuring agreement' simultaneously extends the validity of the agreement to the financial claims of those creditors who have not given their consent to the agreement. However, the mandatory effects of the court-confirmed agreement only extend to the restructuring measures.

Commentary

Preventive restructuring proceeding is a relatively new measure, introduced in 2013 (ZFPPIPP-F, Official Gazette of the RS, No. 100/2013), but there are already several high-profile cases. Ulčar and Prinčič (2017) describe some master restructuring agreements reached between debtors and their creditors, for example; ACH, a Slovenian holding company in the tourism, mobile homes production and car dealership sectors, and TUŠ Holding, a food retailer. Both companies succeeded in obtaining the 'master restructuring agreement' by agreeing to sell non-core assets of their companies. ACH successfully disinvested and managed to pay its liabilities much before the deadline, while TUŠ agreed to significant disinvestment by 2021. However, two other prominent companies Sava, a major hotel business, and Thermana Laško, a wellness operator, were not able to convince a sufficient number of creditors and both ended up facing compulsory

settlement procedures.

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Other Court
Involvement (others)	Creditors, auditor
Thresholds	Affected employees: No, applicable in all circumstances Company size: 11 Additional information: No, applicable in all circumstances

Sources

- [Insolvency - Slovenia](#)~~~ [Zakon o finančnem poslovanju, postopkih zaradi insolventnosti in prisilnem prenehanju \(ZFPPIPP\) \(SL\)](#)~~~ [Ulčar, M. and Prinčič, B. \(2017\), The European, Middle Eastern and African Restructuring Review 2017: Slovenia: Overview, 9 March 2017.](#)~~~ [Peljhan, G., Hrastnik, B. and Šuštar, U. \(2016\), Slovenia, The Insolvency Review, Law Business Research Ltd, London.](#)~~~

Citation

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