



Early restructuring and a second chance for entrepreneurs

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France Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in France? ⁽¹⁾

Effectiveness of insolvency proceedings

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France ranks 14th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

FR

1.9

EU

2.0

Recovery rate for secured creditors following insolvency proceedings

FR

78.5%

EU

65.0%

► The most likely outcome for debtors in financial difficulty in France is **liquidation**.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in France ^(?)	With the new rules
A court is involved early in the restructuring process and an insolvency practitioner is appointed as a supervisor or mediator.	✓ Companies in financial difficulties can have access to a flexible preventive restructuring framework that can reduce the length and cost of court proceedings. Where necessary, the courts will be involved to safeguard the interests of third parties. The appointment of an insolvency practitioner should not be mandatory for all the cases.
Upon opening restructuring proceedings, the debtor can have a long “breathing space” from enforcement actions that can be from 6 months up to 18 months.	✓ Viable companies in financial difficulties can have access to a time-limited “breathing space” of no more than 4 months from enforcement actions, renewable until a maximum duration of 12 months under strict conditions. This will not only facilitate negotiations, but also provide further predictability and legal certainty for creditors.
There is less legal certainty for creditors since they are not treated in different classes for the purposes of voting on a restructuring plan and there are limitations in valuation.	✓ As a minimum, there will be classes of secured and unsecured creditors in order to ensure that similar rights are treated equitably and that restructuring plans can be adopted without unfairly prejudicing the rights of affected parties. In order not to jeopardise restructuring, dissenting classes of creditors and shareholders can be outvoted under strict conditions . There are safeguards to protect everyone’s legitimate interests. Rules on valuation can ensure a better protection for creditors.

(?) Information on current framework according to the Member States’ responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.