



European
Commission

Early restructuring and a second chance for entrepreneurs

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Luxembourg 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 Luxembourg? ⁽¹⁾

Effectiveness of insolvency proceedings

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Luxembourg ranks 27th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

LU 2.0

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

LU 43.7%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Luxembourg 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 Luxembourg ⁽²⁾	With the new rules
There is room to improve the length of insolvency proceedings.	✓ Specialisation and training of judges and practitioners, the use of electronic means of communication and the adoption of measures to ensure expeditious treatment of procedures will improve its efficiency, reducing their length.
A “breathing space” from enforcement actions is automatically provided to the debtor until the end of the procedure.	✓ Viable companies in financial difficulties can have access to a time-limited “breathing space” from enforcement actions of no more than 4 months, 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.
The creditors are not divided in classes for adopting the restructuring plan. As a result, secured creditors can be outvoted by unsecured creditors and there is less legal certainty for creditors.	✓ 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 while respecting the legitimate interests of creditors.
New financing for companies in the process of early restructuring is not sufficiently encouraged or protected.	✓ Access to fresh money is vital for the rescued company. New financing will be specifically protected increasing the chances that restructuring will be successful.
The discharge period is long (7 years), which makes the debt discharge too burdensome for many entrepreneurs.	✓ Honest insolvent entrepreneurs will have access to a full discharge of their debt after a maximum period of 3 years, without prejudice of adequate safeguards put in place to prevent possible abuses.

⁽²⁾ 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.