

Is Corporate Insolvency Law Effective and Efficient?

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Is inefficient justice unjust?



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Methodology



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Characteristics:

- **Legal forms**
- **Economic activities**
- **Company size**



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Companies whose insolvency ended in 2004, according to legal form

<i>Legal form</i>	<i>Number of companies</i>	<i>%</i>
<i>Private limited company</i>	2931	70.3
<i>Public limited company</i>	17	0.4
<i>Foreign legal forms</i>	42	1.0
<i>Commercial partnership</i>	206	4.9
<i>Limited partnership</i>	40	1
<i>Sole proprietorship</i>	833	20
<i>Partnership</i>	2	0
<i>Foundation</i>	73	1.8
<i>Cooperative association</i>	16	0.4
<i>Other</i>	7	0.2
<i>Total</i>	4167	100

Source: Statistics Netherlands (CBS)



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Companies whose insolvency ended in 2004, classified according to the Standard Industrial Classification

<i>Standard Industrial Classification (1993)</i>	<i>Number of companies</i>	<i>%</i>
<i>Unknown</i>	<i>21</i>	<i>1</i>
<i>Agriculture and fisheries</i>	<i>62</i>	<i>1</i>
<i>Industry</i>	<i>495</i>	<i>12</i>
<i>Construction industry</i>	<i>544</i>	<i>13</i>
<i>Repair and trade</i>	<i>1036</i>	<i>25</i>
<i>Hotel and catering</i>	<i>186</i>	<i>4</i>
<i>Transport</i>	<i>252</i>	<i>6</i>
<i>Financial institutions</i>	<i>369</i>	<i>9</i>
<i>Business services</i>	<i>1017</i>	<i>24</i>
<i>Other services</i>	<i>186</i>	<i>4</i>
<i>Total</i>	<i>4167</i>	<i>100</i>

Source: Statistics Netherlands (CBS)



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Corporate insolvencies according to number of employees in service at the time of the insolvency order

	Private limited companies	Public limited company	Partnership	Sole proprietorship	Dutch legal person (other)	Foreign legal form	Total
0	1324	8	133	605	57	20	2145
1	274	3	20	127	8	9	442
2	195	0	37	28	4	6	270
39541	270	0	22	23	3	3	321
39696	343	2	18	25	9	1	398
43739	241	2	9	12	5	2	272
20-49	171	0	2	7	7	1	189
50-99	43	1	2	0	1	0	47
100-149	9	0	0	0	0	0	9
150-199	2	0	0	0	0	0	2
200-249	2	0	0	0	0	0	2
250-499	1	0	0	0	0	0	1
Unknown	56	0	6	6	0	0	68
Total	2931	17	249	833	95	42	4167

Source: Statistics Netherlands (CBS)



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Goals:

- **Maximisation of the proceeds of the joint creditors**
- **Preservation of the businesses**
- **Preservation of employment**



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**In three fourths of the
corporate insolvencies the
insolvency creditors did not
receive any payment at all**



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**The insolvency procedure
achieves its goal of
preserving businesses only
to a limited extent**



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The insolvency procedure achieves its goal of preserving employment only to a limited extent



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Insolvency is of minor social importance



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Efficiency of goals is unknown



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Conclusions:

**The social importance of
the insolvency
procedure is less than
expected and it hardly
achieves its goals**



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Goals can be reached during informal restructuring



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Goals can be reached during informal restructuring



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Conclusion: Lack of supervision during informal restructuring



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Is the solution of financial difficulties a predominantly economic matter?



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