

# Collection Profile Finland



## Collecting in Finland

- The payment behavior of domestic companies is excellent with payments taking place in 25 days on average, and the EU framework provides reliable tools when it comes to late payment.
- Legal action for undisputed debt is usually resolved quickly (between 3 to 6 months), however, when the debtor's assets are difficult to locate, or the debt is disputed, it can become time consuming.
- Although insolvency law aims at rescuing companies facing financial difficulties in order to increase repayment possibilities, most reconstruction procedures spread over years (or fail) thus leaving the creditors with no or very few dividends, while liquidation procedures leave very low recovery chances to unsecured creditors.

## Collection complexity



## Complexity relating to

Notable → Severe

	Notable	High	Very High	Severe
Payments	\$ \$ \$ \$			
Court proceedings	⚖️ ⚖️ ⚖️ ⚖️			
Insolvency proceedings	↘️ ↘️ ↘️ ↘️			



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## General information

### Availability of financial information

Financial statements in Finland are subject to registration for limited liability companies, open joint stock companies and limited partnerships companies. However, limited partnership companies are only subject to registration if certain circumstances, such as the size of the company are met. Financial information on domestic companies may therefore be obtained from the Finnish Patent and Registrations office's trade register, as well as through a number of specialized credit information companies.

Euler Hermes has online access to registered financial information through chosen providers and allocates each company a grade reflecting its financial health and how it conducts business. Grades represent a core of our knowledge and analyses, and help clients identify and avoid risk. Data is continuously monitored to offer the most up-to-date information to support management decisions.

### Main corporate structures

Liability for business debts is determined by legal structures, which are described as follows:

- The majority of businesses in Finland are private traders and limited liability companies. Very small enterprises often take the form of a Sole Proprietorship (toiminimi, T:mi), a business entity established by assets contributed and owned by one person acting in their own name who may thus be held liable for its whole debt.
- Partnerships (avoin yhtiö, Ay) are founded by at least two partners who are jointly and severally liable for the obligations of the entity. Liability limitations may be put into place through Limited Partnerships (kommandiittiyhtiö, Ky) which involve one or more managing partners jointly liable for the company's operations and debts together while the silent partners' liability is limited to their contribution.
- Shareholders in a Limited Liability Company (osakeyhtiö, Oy) are held liable to the company's debts only with their contribution, but there must be a minimum capital fund of EUR 2,500. Larger businesses would rather be set up through Public Limited Companies (julkinen osakeyhtiö, Oyj) or Joint Stock Companies in which a minimum capital of EUR 80,000 must be provided.

### Regulatory environment

Finland has a Civil Law system and its courts are fairly efficient. District Courts (käräjäoikeus) render decision in first instance, but they may be assisted by specialist courts such as the Insurance Court, the Labour Court or the Helsinki Market Court (Markkinaoikeus) which has jurisdiction over fraudulent business behaviors, dominant position abuses, as well as intellectual property disputes and preliminary injunctions since September 2013.

Finnish and Swedish are the country's official languages and are thus used in all legal proceedings. The courts do not set binding precedents but the decisions rendered by the Supreme Court tend to constitute guidelines followed by the lower courts.



**Days Sales Outstanding (DSO):** The payment culture in Finland is excellent and payments take place within 25 days on average.



# Getting Paid

## Days Sales Outstanding (DSO)

The payment culture in Finland is excellent with payments taking place within 25 days on average. The DSO was 53 days in 2016.

## Late payment interest

Late payment interest in Finland may be charged to the debtor. Indeed, the Recast Directive 2011/7/EU which stipulates that payments in the EU must be made within 60 days was transposed into Finnish law in November 2012 (Act on the Payment Terms of Commercial Agreements - laki kaupallisten sopimusten maksuehdoista). The rules in Finland are stricter than the EU requirements: as a general rule, business-to-business transactions must be paid within 30 calendar days, although the terms may be extended to 60 days by contract as long as the agreement remains fair.

Interest rates may be fixed contractually but the law otherwise provides a minimum interest calculated on the basis of the Bank of Finland's (Suomen Pankki) reference rate (fixed twice a year in January and July), increased by at least 7 percentage points.

In practice, interest has long been applied systematically when bills remained unpaid.

## Debt collection costs

In addition, an amendment to the Finnish Act on the Collection of Debts entitles creditors to receive a flat EUR 40 compensation covering their collection costs, while reasonable collection costs may also be charged to the debtor. These costs are usually paid for in practice.

## Ownership protection

Retention of Title (RoT) provisions aiming at preserving the seller's ownership over goods until the related invoice has been paid in full are common in many countries. In Finland, however, these would be applied restrictively to cover the purchase price of fixed assets but would not cover tradable goods.

## Payments

The most common payment methods are often used in a complementary manner and may be listed as follows:

Bank transfers are among the most popular payment means as they are fast, secured, and supported by an increasingly developed banking network internationally and domestically. For export transactions, transfers can be guaranteed through an Export Credit Insurance Policy, which helps minimize the risk of sudden or unexpected customer insolvency. Euler Hermes' worldwide network of risk offices monitors the financial well-being of customers and grants them a specific credit limit up to which clients may trade and claim should something go wrong. Standby Letters of Credit (a bank guarantees the debtor's credit quality and repayment abilities) are also available although they would rather be used in last resort.

A Bill of Exchange may be considered as a lack of trust. Checks essentially serve as debt recognition titles rather than as payment means. Overall, bank guarantees remain largely unused as they are expensive.



### Late payment interest:

As a general rule, business-to-business transactions must be paid within 30 calendar days, although the terms may be extended to 60 days by contract.



## Collecting overdues

### Amicable action

#### Negotiating

Even though the Finnish judiciary system is trustworthy, it is advisable to first consider amicable settlement opportunities as an alternative to formal proceedings. In addition, it is essential to be aware of the debtor's solvency status: if insolvency proceedings have been initiated, it indeed becomes impossible to enforce a debt (see below).

Legal dunning ought to start with a Demand Letter (registration is not necessary in Finland) recalling the debtor its obligation to pay the principal together with late payment interest (as contractually agreed or taking a legal rate as a reference) within seven days. If the debtor fails to respond, another letter threatening to register the debt into a public register is often extremely efficient since appearance in the register usually has an impact on the company's credit rating.

### Legal action

#### Ordinary proceedings

If the debt is certain and undisputed, fast-track proceedings would first request a simplified Payment Order (suppea haastehakemus) on the basis of any invoice, contract or debt recognition title available. The debtor is contacted (electronically) and given two weeks to file a defense. The court then renders a judgment by default if the debtor remains unresponsive.

When the debtor company has assets in other EU Member States, a European Payment Order procedure facilitating the recovery of undisputed debts (under Regulation EC No 1896/2006) may furthermore be triggered. In this case, the demanding party may request the Helsinki District Court to issue an Order to Pay which will then be enforceable in all European Union countries (except Denmark) without exequatur proceedings.

Ordinary legal action would usually commence when amicable collection has failed. A written application for summons must be left with the registry of the District Court, which then serves the debtor with a Writ of Summons. The debtor is then given approximately two weeks to file a defense, but failure to reply would tend to lead to a default judgment in favor of the claimant.

Otherwise, the court will examine the parties' evidence and arguments before rendering a decision.

Courts normally award remedies in the form of injunctions, compensatory damages or declaratory judgments, but punitive damages are not allowed.

#### Necessary documents

Power Of Attorney (signed by the creditor) and copies of invoices.

#### Time limitations

Legal proceedings in civil cases must be initiated within three years (the former ten-year limitation was reduced in 2004). Time limits must be strictly observed as they are regarded by courts as a

substantive law issue, but the period of statutory limitation can be interrupted by reminding the debtor (in writing) of the existence of the debt. Final judgments remain enforceable for 15 years.

#### Precautionary measures

Precautionary measures may help preserve the creditor's interests pending a final and enforceable judgment. Indeed, the courts may order interim remedies ex parte (without the presence of both parties) to avoid irreparable damage (attachment, injunction to do something or to prevent from doing something, protection of rights, etc.), and to obtain or protect evidence.

It is generally required to demonstrate an emergency situation justifying the granting of such measures, and the courts would tend to require that the claimant provides security on costs in order to protect the respondent from irresponsible action.

#### Lodging an appeal

First instance judgments may be appealed provided that the party has notified its intention to appeal within seven days of delivery of the decision by the court. Appeals must then be lodged within 30 days of delivery. Decisions rendered in second instance may be appealed against before the Supreme Court, which must authorize such proceedings (the case would usually have an impact in terms of precedent, would suffer a potential procedural error, etc.).

#### Enforcing court decisions

A judgment is enforceable for 15 years as soon as it becomes final (i.e. when all appeal venues have been exhausted). If the defeated party fails to abide by the judgment, the claimant may have it enforced through a bailiff who will try to obtain an instalment agreement with the debtor, or enforce it through a seizure of assets.

#### How long could legal action take?

Undisputed claims in Finland would normally be resolved within three to six months, but when the claims are disputed legal proceedings could take about a year.

#### Collection @ Euler Hermes

It is always advised to attempt collection prior to any legal action in order to maximize chances of successful recovery and avoid legal costs and delays. Our key principle is to collect in close proximity to the debtor, using a series of letters, emails and phone calls in the local debtor language. Our World Collection Network of Euler Hermes offices and external providers are experts in professional trade debt collection and negotiation, ensuring positive outcomes while retaining important client relationships. Euler Hermes can handle the complete collections process from amicable, pre-legal action through to judgment and enforcement.

### How much could this cost?

As a general rule, the successful party may demand the court to hold the defeated party liable for the payment of the court fees as well as for part of its legal costs. Court fees in Finland are very modest: up to 200 EUR, depending on the debt capital. Contingent fees whereby the legal professionals are entitled to receive a percentage on the final award are illegal in Finland.

## Alternatives to legal action

### Alternative Dispute Resolution methods (ADR)

Although domestic courts are efficient in delivering timely decisions, Alternative Dispute Resolution methods are widely used to solve business disputes in Finland. Use of mediation has increased over the last years, and arbitration is frequently relied upon. Settlement agreements reached through mediation are binding as contracts and may be recognized by the courts as being enforceable if disregarded by the parties.

Arbitration awards are considered as final and enforceable judgments binding on the parties. These help preserve confidentiality in proceedings and cannot be appealed (except in specific conditions, i.e. lack of jurisdiction, fraud, etc.).

### Foreign forums

Similarly, using a foreign forum in order to obtain a decision in debt-related disputes is not common in Finland. Nonetheless, the country is a signatory to the Rome I Regulation on the law applicable to contractual obligations, which stipulates that the parties to a contract may, by mutual agreement, choose the law applicable to their contract, and select the court that will have jurisdiction over disputes. Finland is also a signatory to the Hague Convention of 15 June 1955 on the law applicable to the international sale of goods, which similarly stipulates that contracts shall be governed by the law chosen by the parties, the general spirit of the agreement and the circumstances of the case.

Therefore, the parties may well agree to solve their business disputes under a foreign law or before a foreign court but it is essential that the agreement be characterized by an international connection (for example, one party has elected domicile in another country, or the place of execution is located abroad), and that a jurisdiction clause is specifically drafted to this purpose.

### Enforcing foreign awards

Foreign awards (rendered against foreign debtors owning assets in Finland, for instance) are fairly enforceable in Finland but various circumstances may apply. On one hand, decisions rendered in an EU country would benefit from particularly advantageous enforcement conditions. Apart from EU Payment Orders which are normally enforceable directly in domestic courts, the two main methods of enforcing a EU judgment in Finland are by the use of a European Enforcement Order (EEO, as provided under Regulation EC No. 805/2004) when the claim is undisputed, or by registering the judgment under the provisions of the Brussels I Regulation (44/2001).

If the judgment qualifies as an uncontested claim, it can be enforced directly (i.e. without registration) by use of an EEO provided that the debtor has identified assets in the country. A European Small Claims Procedure (as provided by Regulation EC 861/2007) aiming at eliminating intermediate steps may similarly be relied upon while enforcing decisions up to EUR 2,000.

If the claim is disputed, the procedure for registering an EU judgment with domestic courts is relatively simple. The judgment holder must apply to the relevant court for the judgment to be registered and provide the court with, among other documents, an authenticated copy of the judgment, a certified translation and, if interest is claimed, a statement confirming the amount and rate of interest at the date of the application and going forward. Once the judgment has been registered, it can be enforced as if it were issued by domestic courts (according to the Recast Regulation EC 1215/2012, such an exequatur procedure is no longer required from January 2015).

On the other hand, judgments rendered in foreign countries outside the EU would be recognized and enforced on a reciprocity basis provided that the issuing country is party to a bilateral or multilateral agreement with Finland drafted for this purpose.

Finland is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, therefore its domestic courts ought to recognize and enforce awards rendered through international arbitration proceedings.



### Litigation @ Euler Hermes

Should legal action be necessary, Euler Hermes can provide support throughout the legal process from judgment to enforcement via our World Collection Network of Euler Hermes offices and external providers. Legal action can often be complicated and expensive, so you will be informed of all costs prior to any action and advised on which route is best to take.

## Handling insolvent debtors

A debtor in Finland is regarded as insolvent if they are permanently unable to pay their debts when they fall due.

There are two types of insolvency proceedings in Finland: reorganization of an undertaking (under the Restructuring of Enterprises Act of 1993) and bankruptcy (under the Bankruptcy Act 2004). Both can be initiated following a petition to the court of first instance by the debtor or by the creditors alike.

In general, the recovery rate in insolvency procedures is very low and, when a company is declared bankrupt it is unlikely that a dividend exceeding 10% of the receivables is paid to the creditors. In a company reconstruction procedure, where the aim is to save the company, dividends may be paid in instalments, usually within a period of time which might reach up to ten years. In practice, however, most reconstruction procedures fail, leaving the creditors with no, or very few dividends.

### Insolvency proceedings

#### Out-of-Court proceedings

There are no specific rules on out-of-court agreements in Finland but these are commonly used in practice. The bankruptcy and reorganization laws must be taken into account and the agreement cannot be validated without the creditors' unanimous approval, according to the voting rules applicable to bankruptcy or reorganization. Out-of-court agreements would usually be confirmed by the court.

#### Restructuring the debt

Reorganization proceedings (Yrityssaneeraus) take place as follows. Upon demand of the debtor, the court appoints a receiver who takes control of the company. A moratorium is set up in order to protect the debtor's assets from enforcement claims (temporary freezing of payments together with a prohibition of execution and collecting). The Board of Directors maintains its power of decision but the receiver is entitled to control the emission of new debts, to oversee ownership transfers, etc. Should the debtor fail to respect the restructuring agreement, a liquidation phase would be considered.

#### Winding up proceedings

Bankruptcy proceedings (konkurssi) are equivalent to liquidation proceedings in other countries. Upon the acceptance of a liquidation petition by the court, the debtor is declared bankrupt. A receiver is appointed (creditors are also entitled to make suggestions as to the receiver's appointment) and establishes a time limitation for the creditors to bring their claims. It then establishes a proposed distribution scheme, while creditors supervise the selling of the estate and the distribution of the sales' proceeds.

#### Priority rules

There are no general priority rules in Finnish insolvency procedure where only the costs of the procedure are prioritized. Creditors might, however, obtain priority to certain asset items by obtaining and registering mortgage or pawn rights. It is also possible to register a business mortgage to the company's assets and thus obtain a privileged position in the procedure. By contrast with other countries, tax and employee claims have no priority at all.

#### Cancellation of suspect transactions (clawback)

Receivers in reorganization and liquidation proceedings are both entitled to review and apply for cancellation of any suspect transactions conducted by the debtor during a suspect period ranging from three months to five years prior to the beginning of the insolvency proceedings. Typically, transactions favoring one creditor over the others or reducing the estate's value (etc.) could thus be void.

#### How long could insolvency proceedings take?

Insolvency proceedings in Finland usually take one year.

#### Necessary documents

Power Of Attorney (signed by the creditor) and copies of invoices.



#### Insolvency @ Euler Hermes

Euler Hermes works closely with debtors, creditors and lawyers to provide support during insolvency and restructuring processes. With many options available when it comes to insolvency action, we can offer advice on which option is most suitable.

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