



Universiteit
Leiden
The Netherlands

Restructuring in the Shadow of the Law. Informal Reorganisation in the Netherlands

Adriaanse, Jan

Citation

Adriaanse, J. (2005, December 15). *Restructuring in the Shadow of the Law. Informal Reorganisation in the Netherlands*. Kluwer|The commercial edition can be ordered through www.kluwershop.nl at a price per copy of __57,75. Retrieved from <https://hdl.handle.net/1887/9755>

Version: Corrected Publisher's Version

License: [Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden](#)

Downloaded from: <https://hdl.handle.net/1887/9755>

Note: To cite this publication please use the final published version (if applicable).

Currently, in many countries – both in Europe and far beyond – existing insolvency legislation is being improved. These changes are often nurtured by the wish to prevent liquidation of companies as much as possible. Legislation aimed at deferment or remission of payment is introduced or relaxed in order to give companies a chance to become viable again. A more efficient possibility – in the form of an informal reorganisation – seems to be often overlooked by the legislators. This phenomenon of *Restructuring in the shadow of the law* – during which a company, in cooperation with its direct interested parties, makes an attempt at reorganisation outside the legal frameworks – takes centre stage in this study.

Relatively little is known about informal reorganisations. This can be explained by the fact that they often take place away from the public domain. By means of literary search, interviews, surveys and 35 case studies – carried out at so-called *Intensive Care Departments* of banks and at consultancy agencies – this book provides an insight into the practice of these rescue operations. It discusses causes of financial difficulties and measures which are taken within the framework of strategic and operational business and financial restructuring. Furthermore, it exposes bottlenecks and distinguishes success and failure factors. It also discusses international developments in the field of *Voluntary rescue frameworks*. It argues that considerable value can be created when companies reorganise in an informal manner. In order to remove bottlenecks in practice and to stimulate informal reorganisations, codes of conduct must be introduced – in the Netherlands at least – and mediation during informal reorganisations must be institutionalised. Relevant ideas are worked out (in greater detail) on the basis of the study results.

Although it is based on the situation in the Netherlands, this study could be of interest to a large group of interested parties in international practice. Not only those involved with the daily prevention and solving of financial problems, but particularly also those who – intentionally or unintentionally – have been or are at times confronted with a deteriorated state of affairs in companies will find information of their interest. They may include accountants, auditors, management consultants, lawyers, politicians, civil servants, bankers, managers and entrepreneurs. Place of business hardly plays a role in this respect: after all, the laws of business economics are universal.

This is a volume in the series of the E.M. Meijers Institute of Legal Studies of Leiden University within the framework of the 'dispute settlement' research program.



INSTITUUT VOOR
RECHTSWETENSCHAPPELIJK
ONDERZOEK

MI
97

J.A.A. ADRIAANSE

Restructuring in the Shadow of the Law



INSTITUUT VOOR
RECHTSWETENSCHAPPELIJK
ONDERZOEK

Restructuring in the Shadow of the Law

Informal Reorganisation in the Netherlands

J.A.A. ADRIAANSE

KLUWER



KLUWER