

AD HOC MANDATE OR CONCILIATION

The law for companies' safeguard ("loi de sauvegarde des entreprises") gives companies that are facing economic, legal or financial difficulties and that are not yet in a situation of insolvency ("cessation de paiements") (the company is not able to pay its debts) the means to deal with these difficulties in a preventive way.

Two preventive procedures can be used: the ad hoc mandate and the conciliation, which are both out-of-court settlement proceedings ("règlement amiable").

In both procedures, the company's manager will be able to negotiate its debts with the company's creditors, under the aegis of a third party, who, depending on the procedure, will be the ad hoc agent (« mandataire ad hoc ») or the mediator (« conciliateur ») and will be appointed by the President of the Court.

The manager can only appeal to the court if the company has not made a declaration of cessation of payments ("déclaration de cessation de paiements") and if the company has not been able to pay its debts since less than 45 days.

In 60% of cases, the proceedings engaged have a successful outcome, and lead to the preservation of the company. During the year 2001, 4 240 jobs were preserved that way in the city of Paris. (Calculated according to the number of jobs declared during the application for a out-of-court settlement)

Ad hoc mandate and Conciliation

What are the differences between ad hoc mandate and conciliation?

These procedures are carried out in different way even though their goal is the same.

The aim is to provide a confidential and out-of-court negotiation of the company's debts. An ad hoc agent or a mediator, appointed by the President of the Court, assists the debtor.

The claimant may suggest to the President, as his/her sole appreciation, the name of an ad hoc agent or the name of a mediator. During the proceedings, the manager remains in charge of the company.

This procedure may be carried out: as soon as difficulties appear for the ad hoc mandate procedure, and when difficulties (economic, legal or financial) are predictable, for the Conciliation.

The ad hoc mandate procedure can therefore occur before the conciliation.

The duration of both procedures is different.

The mediator's mission is very brief since he can be appointed for a maximum period of four months, renewable for one additional month. This procedure can be useful for companies that already have started negotiations. It can end on the approval of a draft agreement by the court in charge of the case between debtors and creditors.

The ad hoc agent's mission can last longer than the mediator's. He/she is usually appointed for three months, renewable several times if necessary. His/her mission ends with the drafting of an agreement negotiated

between creditors and partners. The court does not need to approve this agreement.

For [more information regarding the ad hoc mandate, click here.](#)

For more information regarding the conciliation, [click here](#)

Contact the department dealing with the prevention of the companies' difficulties: prevention@greffe-tc-paris.fr