



# Project Acquisition and Divestment in Finland

2025



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Finland has become an attractive location for international investors seeking reliable and profitable investment targets.

Finland has a strong, stable economy and a predictable political environment. As a member of the euro zone, Finland is highly accessible for European investors. Finland’s real estate market has been a popular target for international funds for many years.

Recently, investments in industrial facilities and in infrastructure have been on the rise as well, with the emphasis being on energy projects, most prominently renewable energies. This trend is expected to continue.

In this booklet, we provide an overview of the central legal issues and aspects of taxation that an international investor will be facing when acquiring or divesting a project in Finland.



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Peter Jaspers advises companies in their investments and transactions in Finland. With his result-oriented mindset and extensive experience in financing, M&A, and complex contract arrangements, Peter is a trusted partner for our industry clients.

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## Structure of a Finnish SPV

Like in other jurisdictions, individual projects in Finland are commonly organized in the framework of a Single Purpose Vehicle (SPV). In Finland, the vehicle comes – almost without exception – in the legal form of a limited company (*osaakeyhtiö*, Oy).

The Oy is an independent legal entity that is “bankruptcy remote”, i.e., the insolvency of the SPV does not put the parent company at risk in excess of the loss of any equity or debt investments already made. Further, the assets held by the SPV are as such unaffected by the insolvency of the parent company and can thus serve as collateral for non-recourse financing or other financing instruments.

A private limited company can be established with an arbitrary amount of registered share capital or also, if the founders so decide, without any protected share capital.

The articles of association contain the fundamental rules for the company’s structure and management. The law leaves the founders considerable latitude in moulding the articles according to their needs. For the case that the SPV is in the hands of more than one shareholder, the articles may contain detailed individual

provisions, e.g., with regard to voting rights, distribution of profits, pre-emption rights, or formalities in respect of shareholders’ meetings.

The central managing organ of the company is the board of directors (*hallitus*), consisting of one or more members. If fewer than three regular members of the board are nominated, one substitute member must also be appointed.

Board members do not necessarily have to work in the company on a continuous basis. The board is, however, the organ ultimately responsible for the management of the company. It has responsibility for supervising the managing director and giving the managing director instructions as to how to fulfil his or her duties.

In addition to the board, the company may appoint a managing director (*toimitusjohtaja*). In practice, the majority of Finnish companies have a managing director. If a managing director has been appointed, he or she runs the day-to-day business of the company. The managing director is also responsible for ensuring proper accounting. The authority of the managing director is limited to the usual course of business, insofar as the articles of association do not provide otherwise.

## Financing for Finnish projects

Private investments in Finnish projects usually rely on a combination of equity and debt financing, whereas the latter is primarily sought in the form of non-recourse project financing.

Project finance does not have a long tradition in Finland but has quickly gained popularity particularly with the rise of wind energy projects in the country. As Finnish banks have been somewhat reluctant to embrace project financing as a business model, a large portion of projects is being financed by banks from other European jurisdictions.

### Merger Control in Project Deals

As any M&A transaction, the acquisition of a Finnish project is subject to merger control scrutiny under Finnish or EU competition law.

National merger control procedures are applied when the combined turnover generated in Finland (Finnish turnover) exceeds 100 million euro, and at least two of the parties have a Finnish turnover of more than 10 million euro. The scrutiny is conducted by the Finnish Competition and Consumer Authority.

If the deal exceeds the thresholds defined in the EC Merger Regulation 139/2004, the transaction is scrutinized exclusively under the rules of the Regulation by the European Commission.

## Bankable project structure

Investors seeking funding must present their project in a way which will convince the lenders. This includes a suitable range of contractual relationships to secure the project resources and evidence that the permits required under public law have been obtained. The cash flow forecast must provide a sufficient reserve so that there is no question-mark over whether all liabilities will be met under any circumstances (stress test).

From the perspective of the financing bank, the success of the project depends on all parties involved (sponsors, authorities, suppliers, insurance providers etc.) making their contributions in full and in accordance with the contract at the scheduled times. This means that:

- The project participants must be known to be reliable
- There is clear contractual definition of the obligations of the various participants and adequate compensation is stipulated in the event of breach of contract
- The various contracts must be reasonably coordinated to ensure the project implementation according to the cash flow and profitability calculation.

Banks will instruct their own trusted technical experts and lawyers to analyse the technical and legal risks involved in the project. If this due diligence exercise throws up problems, this will cause delay and it is possible that the loan conditions will become less favourable or that financing may not be forthcoming. In order to minimise risk, an operator should conduct its own technical and legal assessment as soon as possible and in any event before the start of the financing negotiations.

## Security package

The security package plays a key role for the project financing loan decision as the sponsors do not assume any personal liability. Next to an adequate proportion

### Foreign investment considerations

Finland maintains a generally open and investor-friendly environment for foreign acquisitions. However, certain transactions may trigger review under the Act on the Monitoring of Foreign Corporate Acquisitions, particularly where national security or public order could be affected.

The review mechanism applies to acquisitions of Finnish entities engaged in critical infrastructure, defence, or security-sensitive sectors. It may also apply to acquisitions by entities controlled by non-EU or non-EFTA investors. The key consideration is whether the acquisition poses a threat to national security or public order.

Investors should factor potential review timelines into their transaction planning. Early legal assessment is recommended, especially for energy, telecommunications, or logistics-related projects. While most transactions do not require prior approval, the Ministry of Economic Affairs and Employment may request notification or initiate a review. In sensitive sectors, voluntary pre-clearance is advisable to avoid delays. If a formal review is conducted, the review process typically takes a few months.

of equity financing, the bank will typically require pledges on all relevant project assets, the SPV's bank accounts, and also the shares in the SPV itself.

The financier's security requirements should be considered already early on in project development. Central project agreements should be drafted from the start with an eye on the future necessity to pledge the rights under the agreement to the financier. Many business contracts include limitations an assignment of rights, and such limitations also impact the eligibility of such right to be pledged. Adequate carve-outs should be included for financing arrangements in order to avoid later renegotiations of contracts.

Contracts that are of material importance for the project should also cater for the step-in rights that financiers customarily require for the case that the loan becomes distressed.

## Contract drafting for project acquisitions

Drafting contracts for project acquisitions in Finland requires a careful balance between legal precision, commercial clarity, and local regulatory compliance. While Finnish law offers flexibility and a relatively low level of formalism, the importance of well-structured agreements cannot be overstated, especially in cross-border transactions.

### Governing law and language

Although parties are generally free to choose the governing law of their contract, it is strongly recommended to apply Finnish law when acquiring Finnish projects. This is particularly important for share transfers and asset deals, which must comply with Finnish legal formalities regardless of the contract's governing law. Moreover, many operational and tax-related clauses will need to be tailored to Finnish legal standards.

Contracts are commonly drafted in English, especially in international transactions. Finnish courts and authorities accept English-language documents, but clarity and precision are essential to avoid misinterpretation.

### Structure and formalities

Finnish law does not impose excessive formalities on the transfer of shares or most assets. A share transfer can be executed by a simple agreement without notarization or registration.

Asset deals are similarly straightforward, except for the transfer of real property, which requires the involvement of a municipal officer and registration with the Land Register. It is common practice to supplement the main sale and purchase agreement (SPA) with separate transfer deeds for specific asset categories (such as shares, real estate, licenses, and key contracts) to facilitate filings and protect sensitive commercial information from public disclosure.

### Key contractual elements

A robust SPA should include detailed provisions on purchase price and adjustments, conditions precedent, representations and warranties, indemnities, covenants, and dispute resolution.

Depending on the nature of the project (e.g., energy, infrastructure, or real estate), sector-specific regulations may impact contract drafting.

For example, energy projects must comply with energy market and grid requirements, grid connection agreements, and environmental permits. Additionally, securing the project's land use requires attention to zoning laws, land use rights, and building permits.

Before a transaction is concluded, these specific requirements are usually subjected to the buyer's scrutiny in due diligence. The transaction contracts should properly reflect the findings of such scrutiny and allocate risks accordingly.

## Liability and diligence in M&A transactions

In Finnish project M&A, the allocation of liability and the diligence obligations of both buyer and seller are central to risk management and deal certainty. While Finnish law supports contractual freedom, it also imposes substantive expectations on the conduct of parties, particularly in relation to disclosure and investigation of material facts.

### Seller liability and disclosure

The seller's liability is typically governed by representations and warranties included in the sale and purchase agreement (SPA). These provisions define the scope of the seller's assurances regarding the condition of the target, its assets, operations, and legal compliance.

However, Finnish courts and arbitral tribunals may look beyond the literal wording of the contract. If the facts suggest that the seller withheld material information or misrepresented the state of the project, liability limitations may be disregarded. This reflects a broader principle in Finnish law: contractual clauses cannot shield a party from the consequences of bad faith or gross negligence.

To mitigate this risk, sellers should conduct a **seller-side due diligence** to identify and disclose all material facts. This process should be documented and reflected in the SPA. Sellers should also ensure that any warranties given are factually accurate and supported by internal records.

Common seller warranties in Finnish project transactions include:

- Ownership and title to shares or assets
- Compliance with permits and regulatory obligations
- Absence of undisclosed liabilities or litigation
- Validity of key contracts and absence of termination notices
- Tax compliance and payment history

### Buyer diligence and risk allocation

Buyers are expected to conduct their own **buyer-side due diligence** before entering into the transaction. This includes legal, financial, technical, and environmental reviews, depending on the nature of the project. Finnish law does not protect buyers who fail to investigate obvious risks or ignore red flags.

The scope of diligence required depends on several factors such as transaction value (higher-value deals demand more thorough scrutiny), complexity of the target, and availability of documentation.

If a buyer fails to exercise adequate diligence, courts may reduce or deny claims for breach of warranty. This reinforces the importance of a well-documented diligence process and a clear record of inquiries made and responses received.

### Liability and risk in the SPA

Finnish SPAs often include detailed provisions to manage liability, such as:

- **Caps and baskets:** Limiting the seller's total liability and excluding minor claims.
- **Time limits:** Setting deadlines for bringing claims, typically 12–24 months post-closing.
- **Knowledge qualifiers:** Defining the buyer's actual or constructive knowledge to limit claims.
- **Indemnities:** Providing specific remedies for known risks, such as tax liabilities or environmental issues.

Both parties should engage experienced legal, financial, and technical advisors to support the diligence process and contract drafting.

In project transactions, technical due diligence is particularly important to assess the viability of the project, the condition of assets, and compliance with operational standards.

Legal advisors play a key role in identifying regulatory risks, reviewing permits and licenses, assessing enforceability of key contracts, structuring warranties and indemnities, and advising on tax and financing implications.

Buyers should also consider warranty and indemnity (W&I) insurance, which is increasingly used in Finnish transactions to cover gaps in liability or reduce reliance on seller covenants.

## Taxation of a project acquisition in Finland

Tax considerations are a key component of any project acquisition in Finland. Careful planning and documentation are essential to avoid unexpected liabilities and to optimize the transaction structure.

### Value-added tax (VAT)

In general, **share deals** are not subject to VAT in Finland. However, **asset deals** require a more nuanced approach, as each asset class must be assessed individually for VAT treatment.

- Most asset transfers are subject to VAT.
- Certain items, such as shares in subsidiaries, real property, and comparable rights, are exempt from VAT.

The transfer of assets may be exempt from VAT in its entirety if the transfer constitutes a **business transfer**, i.e., the transfer of a complete operational business unit. Many project acquisitions fall into this category, but borderline cases are common.

To manage uncertainties, contracts should include provisions that allocate VAT risk and clarify how the purchase price is apportioned among taxable and non-taxable items.

### Transfer tax

In general, the **transfer of shares** in a company is subject to a transfer tax under Finnish law. The tax rate is 1.5% of the purchase price.

In an **asset deal**, Finnish transfer tax becomes payable only as far as the transfer includes shares in a company (e.g., a subsidiary) or real property situated in Finland. For real property, the transfer tax rate is 3.0%. Importantly for most real-life projects,

the notion of real property includes rights such as land leases. Portions of the purchase price have to be allocated to the assets subject to different tax treatment.

Unless agreed otherwise by the parties, payment of transfer tax is a liability of the purchaser. If the purchaser is not a tax resident of Finland, liability shifts to the seller. Unless the company in question is regarded a real estate company, Finnish transfer tax does not become payable at all if neither party of the transfer is a tax resident of Finland, or a Finnish branch of a foreign financial institute or investment service provider.

### Loss Carryforwards in Finnish Share Deals

If the SPV has carried-forward losses from previous financial years, the transfer of the SPV's shares in a share deal involves the risk of forfeiting these losses for use in the current or future financial years.

The loss of all losses carryforwards is the general rule under Finnish law if more than half of the shares are transferred directly or indirectly. Upon application, the tax administration may grant an exemption "for special reasons, when this is necessary for continuing the corporation's operations".

Traditionally, the tax administration has been reluctant in granting exception permits. In the vast majority of share deals (outside of stock exchange listed companies), an exemption was not granted.

In recent years, Supreme Administrative Court decisions have led towards a more lenient practice, indicating that it should be sufficient if the company continues its operations after the transaction. The tax administration has largely adapted its practices and will now usually grant an exception permit if business continues and there is no indication that the carried-forward losses were a central motive of the transaction.

The exact criteria remain somewhat undefined. For individual transactions, insecurity can be reduced by applying for an exemption before entering into the actual transaction, outlining the same in sufficient detail in order for the tax administration to be able to make their conclusions.

### Income tax on sales profits

Under Finnish tax law, profits made from the sale of any assets are generally subject to income taxation, in the case of corporations at the corporate income tax rate of currently 20%. This is true for a share deal as well as an asset deal. The tax is calculated on the basis of the difference between the agreed purchase price and the original investment(s) made by the seller.

As an important exception, the sales profit obtained from the sale of shares is exempted from sales profit tax if the shares belong to the operative assets of that business. The exemption will usually not be applicable for transactions by investors in project companies where the project does not interact with own business operations of the seller.

International tax law comes into play when the seller of a Finnish project is not a tax resident of Finland. In these cases, the relevant tax treaties between Finland and the seller's home country determine Finland's right to impose sales profit taxes.

## About Bergmann

Bergmann is a boutique law firm focused on the energy, infrastructure, and construction sectors in Finland. We advise clients across the full lifecycle of complex projects, with particular strength in transactional work involving project acquisitions, divestments, and financing.

Our team combines deep industry knowledge with legal precision, making us a trusted partner for investors, developers, and operators navigating the Finnish market. Whether structuring a multi-party acquisition, negotiating key project agreements, or managing regulatory and tax aspects, we deliver pragmatic, commercially sound solutions.

We are known for our hands-on approach, responsiveness, and ability to anticipate challenges before they arise - qualities that make us the firm of choice for clients seeking clarity and confidence in high-stakes transactions.

### Services related to project transactions

- Project acquisition and divestment
- Due diligence and risk assessment
- Transaction structuring and financing
- Contract drafting and negotiation
- Regulatory and permitting advice
- Tax planning and compliance
- Post-acquisition integration and governance
- Process and document management



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