

**Podcast title:** Adventures in Entrepreneurship Law

**Episode:** What is a company? The role and purpose of a limited liability company.

**Podcast guest:** Manne Airaksinen, senior advisor Roschier, Attorneys Ltd.

**Length of recording:** 21 minutes and 20 seconds

**Transcription notes:**

N1: Narrator 1

N2: Narrator 2

N3: Narrator 3

Host 1: Petra Hietanen-Kunwald

Host 2: Kalle Airo

Episode guest: Manne Airaksinen

**Other information about the text:**

**[text]** = a sounds or not transcribed parts are written with square brackets e.g. [laughs] or [interview paused due to a phone call]

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[recording starts]

**N1:** Aalto University podcast.

[Intro music]

**N2:** In the adventures in entrepreneurship law podcast series Petra Hietanen-Kunwald and Kalle Airo from Aalto University, explore business law from an entrepreneurial point of view with expert guests. In some episodes, their co-host is Moritz Scherleitner. The podcast content is meant for education and is not intended to constitute legal advice.

**What is a company? The role and purpose of a limited liability company. Part one, our guest is Manne Airaksinen, senior advisor Roschier, Attorneys Ltd.** Entrepreneurship law with Petra and Kalle.

**N3:** Companies are important tools for entrepreneurs and company law is needed to use and structure these tools. In the first episode on company law, Petra and Kalle will talk with Manne Airaksinen about limited liability companies. We will cover the foundations of companies and company law, the main characteristics of limited liability companies and their purpose.

**Petra Hietanen-Kunwald:** Companies are a tool in the toolkit of the entrepreneur. And company law is a way to create and structure this toolkit. And today we will talk about this with Manne Airaksinen. Hello, Manne.

**Manne Airaksinen:** Hello, thanks for having me.

**Petra:** Nice to have you here. So Manne is the father of three children living in Tapiola, Espoo. He has a background in small businesses, has been active in academia and does a lot of research, also. He has drafted laws, for instance, the Companies' Act, he has been a partner in a big law firm in Helsinki, and also been active in lobbying. And in his spare time, he is the chair of a basketball club. So Manne, why is entrepreneurship important to you?

**Manne:** Well, it is the backbone of the economy. And I have been active in that scene. I have been working for many small companies, particularly in the 1990s. And, of course, I am interested in company law, entrepreneurship is a big part of company law and vice versa.

**Kalle Airo:** What do entrepreneurs actually use companies for?

**Manne:** Well, probably for doing business, first and foremost. And I think the important thing is to sort of separate your own assets and the company assets. And of course, you need to have a company for that.

**Kalle:** So how can an entrepreneur and how should an entrepreneur then build this company to separate the assets and do business with it?

**Manne:** I think it depends quite a lot of the company in question. What type of business you are doing? What are your aims? Do you have several shareholders? Or are you there alone? As long as you are there alone, I think you can take off the shelf company, and you manage quite well. But the scene is quite different when you have several shareholders, and particularly if you have ambitions to grow.

**Kalle:** What is an off the shelf company?

**Manne:** I mean, that is a bit technical term, I agree. But you can buy a limited liability company, which is already made and registered. But you can do it yourself, it is quite easy, because the Articles of Association are fairly simple and the trade register will help you if you go there and ask for help

**Kalle:** So what is a company? And what is typical purpose of a company?

**Manne:** A company is a tool for business, I would say. And the important thing is to separate the assets of the entrepreneur and the company. And it means that you are not liable for the debts of the company. That is one thing.

And then another thing about a company is that there is a structure and hierarchy. I mean, if it grows, you have a board, you may have a CEO, and it is sort of structured way of doing business.

And then the question about the purpose of the company, the default, the assumption is that it is bringing profit to shareholders. As long as you are there alone, I mean, you can do whatever you want to. But if you have several shareholders, it becomes much more important because there might be shareholders who are more interested in making profit and shareholders who are less interested in making profit and there you need to be aware

of the fact that the default is that it is for profit. And if you want to deviate from that, you need to do something, for instance, amend the Articles of Association a bit, for instance.

**Kalle:** Making profit is a bit different if you talk about really short term making profit right now, or making the most profit during the lifetime of the company. So what does this mean, in practice?

**Manne:** This is a hot topic in the academic discussion about companies right now. And under Finnish law, the aim is to make profit long term, not short term. So that means that you are not supposed to take the quick buck and run, you are supposed to invest in the company, and technical terms would be to maximise the future cash flows of the company.

**Kalle:** In practice, this means that you have stakeholders in a company, so let's say customers and people working for the company. And you need to balance the interest of these groups in long term or otherwise you will not have the customers, if you exploit them the short term.

**Manne:** Yes, I usually do not speak so much about the stakeholders, because they are so essential for a company. There is no company without stakeholders, and entrepreneurship actually is interacting with the stakeholders. So it is an integral part of the company, there is no company without the stakeholders.

**Petra:** To get back to this profit discussion, there is lately also quite a lot of discussion that there should be a more sustainability goals introduced into the purpose of the company. So what would you say, is this reasonable? Can there be another purpose? How should people think about this?

**Manne:** I would say that me personally, I would rely on the specific laws about environment. There are a huge amount of legislation about environmental issues, if that is what you mean by sustainability.

One problem with sustainability is that nobody knows what it means. It can mean one thing for one person, and quite another thing for another person. And therefore, company law is a bit sort of blunt instrument to use here, because you really do not know what the company board, for instance, will do and how it will understand sustainability. I mean, you might be interested in environmental issues, whereas the board might be interested in political issues. And those are two very different issues. And I think the definition of the of the definition of the concepts and terms here is important.

**Petra:** You think that there is too much discussion about the contents of sustainability, so it would be too difficult to introduce it into the purpose of the company on a legislative level. But what would you say to somebody who says he or she a shareholder, for instance, founders of a company, that their purpose is not to make profit, but the purpose is to share art or the purpose is to create a brave new world or doing something else? What would you tell them?

**Manne:** I mean, that sounds like a very good idea. And I would support it. And the important thing is to understand that default in the Companies Act is that it is for profit. And if you want to deviate from that, you have to be unanimous with the shareholders, or you have to change the articles of association. But it is perfectly legal, and it is a very good idea in many ways. But you need to be aware of the of the background of the Companies Act.

**Petra:** So this means basically, that when you are establishing the company, at the moment, when you are so to say, drafting the Articles of Association, you can have a different purpose in the Articles of Association, and then this is kind of binding all the shareholders also in the future and also their management of the company.

**Manne:** Yes, exactly. And it is good to understand that it is very difficult then to change afterwards, the articles, it needs a unanimous decision. And that is, I admit quite excessive under Finnish law, but that is something to be, you know, remembered and understood.

**Kalle:** So kind of make this really clear for students who are not business students, or law students. The Articles of Association is the strongest, it binds basically everything that company does. But that is not needed if the shareholders agree and that might not be needed if the management equities or company strategy or corporate strategy say this is how we are going to operate.

**Manne:** Yes, yes, and this is actually quite common. You see a lot of small companies who are not aiming for maximising profit, but it can be a lifestyle or whatever. And if you are the only shareholder, you can, of course, do in this sense, almost anything you want.

**Petra:** So, what are the basic principles or characteristics of a limited liability company?

**Manne:** First, it is a separate legal entity, it means that your assets are separate from the assets of the company, and the company debt is separate from your own debt, that means you have limited liability, or actually you do not have any liability of the debts of the company. Unless you then give guarantees on behalf of the company, or whatever.

Then there is structure and hierarchy, there is the board, there is the managing director, also shareholders meeting, so it is a structured organisation. And then you can also transfer the shares, you have transferable shares, which of course, helps when you want to sell the company.

**Kalle:** So, how is this different from a partnership, for example?

**Manne:** Partnerships are for smaller businesses, very small businesses. And the major difference is that in a partnership, you have general partners who are liable for the debts of the partnership. And that means that the regulation is much more simple, because you do not have to protect the creditors the way in which it is done in the Companies Act. But of course, the downside is that you are liable if you are the general partner, you are liable for the debts of the partnership. And that is maybe the reason why the popularity of partnerships is going down, year by year.

**Kalle:** So nowadays, the default is that you have a limited liability company?

**Manne:** Very strong default. And where you see partnerships is actually a private equity and venture capital business where the funds are formed as limited partnerships.

**Petra:** What about cooperatives?

**Manne:** There has been a lot of discussion about cooperatives. Particularly smaller ones, employee cooperatives and apparently there are quite a number of those being formed these days. On the other hand, we have huge cooperatives in Finland, bank, pulp and paper company and so on. So it can be used for many purposes, it has to be remembered that the purpose of a cooperative is not to make profit, but to help the members in their entrepreneurship.

**Petra:** But what is the difference compared to the limited liability company?

**Manne:** I think the biggest differences is this assumption. The assumption in the limited liability company is to make profit, whereas cooperative is more a tool for the members to do whatever they do. It does not have to be the entrepreneurship, it can be... we have these supermarket cooperatives, so it can be sort of customer side, cooperative as well.

**Petra:** So also the cooperative can be very business oriented and profit making?

**Manne:** Yes, that is correct.

**Petra:** So what does this limited liability mean to the entrepreneur?

**Manne:** I believe many entrepreneurs really do value the fact that they are not liable for the debts of the company, whether it is limited liability company or cooperative. So the assets and debts of the company and the entrepreneur are separate.

**Petra:** Can you give us an example just to tell what this means?

**Manne:** Well, if the business is not a success, and the company goes bankrupt, it does not mean that you as the entrepreneur are bankrupt as well.

**Kalle:** So in practice, this means that the entrepreneur can set the worst case scenario themselves beforehand.

**Manne:** Yes, you can put it that way.

**Petra:** And what does this limited liability mean for society? Why would society be interested in limiting one person's liability, the shareholders liability, who is making profit with this company?

**Manne:** There is a lot of discussion about the limited liability of these limited liability companies. But it does not actually separate these limited liability companies from any

other companies or associations or even public bodies, because nowhere do you see unlimited liability for members, for shareholders, or whatever.

I mean, the only exception is the partnership. And the general partner in a partnership, and even this general partner can be a limited liability company, meaning that even in partnerships, nobody is liable for the debts of the company. So it is actually not strange. That is definitely the main rule.

And why this society sort of allows this, it is very efficient. It means that the investors can invest in several projects, without increasing their risks, the personal risks, actually, they reduce their risks by investing in several companies, whereas if there would be unlimited liability, their risk would increase the more companies you would choose to invest in. It is very efficient and it means that you can be sort of risk neutral as an investor. And then we can discuss it if it is too efficient, for the nature and for the health of the planet. But it is very good for the business.

**Kalle:** So in essence, you can pour resources of many investors into one company, and the investors can then kind of distribute their portfolio of funds into different companies.

**Manne:** That is correct. And then one very important feature is the separation of ownership and control. You do not need to be the manager yourself, in the companies where you invest in, but you can be only the investor, and you can have professional managers managing your investment, if you would have unlimited liability, you would have to be the manager yourself, because you would, of course want to oversee what is taking place. And that would make sort of the companies we have today, of course, impossible, because you could not be a pension fund, and manage all the companies in order to limit your risk.

**Kalle:** And then my comment for the students would be that this is historically, kind of the invention of this limited liability is also one of the powerful drivers of industrial revolution, for example.

**Manne:** Absolutely.

**Kalle:** So in limited liability companies, there are shareholders at least one shareholder, typically more. So what is this share? And what is dividend?

**Manne:** Share quite uniquely combines the ownership of the company and the decision right to the dividend right. One share one vote is sort of a typical slogan. And it is actually quite interesting that it is almost always the most efficient way of running a business is to combine the right to profit with the right to decide on the matters of the company and the share does this, combines this. And the upside of a share is that it is transferable. So it is easy to sell and it is easy to pledge as well. If you need credit, you can use it as collateral.

And then a shareholder of course, is the one who owns the shares. And as I mentioned, he has or she has the decision right, the ultimate right to decide upon the issues of the company. And the most important right, of course, is to elect the board.

And the question about dividend is interesting because as I said shareholders have the right to receive the profit of the company. But it is only after all the stakeholders have received what they are supposed to receive. So it is the most risky investment in a company. So first all the debt is paid, the interest is paid for the workers paid for the those who provide all kinds of products and services to the company. And if something is leftover, if there is a profit, then that can be distributed to the shareholders by way of dividend.

**Kalle:** So, companies have at least two kinds of financing, so equity and debt. So what is equity? And what is debt?

**Manne:** There is a major difference - if you invest in or as debt to company, you have a fixed claim from the company and fixed interest. The company has to pay the interest, irrespective of the fact that they do profit or loss. It does not matter they have to pay the interest in any event, and they are allowed to pay the interest in any event.

But if you invest in the equity, you buy shares from the company for instance. The company is not allowed to pay the dividend if it does not make profit. And that is the important difference between debt and equity.

[Outro music]

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