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Insolvency Laws:

How Countries Have Revamped Their Insolvency and Restructuring Laws

November 2022

Contents

During 2020 and 2021, many countries revamped their insolvency laws, introducing temporary or permanent measures to aid and assist companies in financial distress. Governments acted quickly to put in place measures that changed laws, relaxed or suspended legal obligations and introduced new provisions aimed at supporting businesses during the pandemic and avoiding large scale insolvencies.

Many countries still retain temporary measures to support businesses as they emerge from the pandemic and this guide focuses on the key changes in restructuring and insolvency laws in those countries listed in this guide.

Czech Republic

	The Czech Republic does not have any temporary measures in place and pre-COVID-19 insolvency rules and regulations now apply to all companies.

France

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	In the context of the **COVID-19** pandemic, France established a "state of health emergency", authorising the government to take all necessary measures to combat the effects of the pandemic, including making temporary amendments to the French Commercial Code and the country's insolvency laws. While most measures have now been suspended (most by 31 December 2021), they prompted and have been implemented by other long-term changes in the applicable legislation on insolvency. On 31 May 2021 and 15 September 2021, France introduced (i) a new insolvency procedure (called "crisis exit procedure") dedicated to assisting companies to exit support of the **COVID-19 measures**, and (ii) a reform of the insolvency regime in its Commercial Code.

Following several changes to French insolvency laws implemented during the COVID-19 pandemic in 2020, with emergency measures (Orders of 27 March and 20 May), in 2021 (Law of 31 May, Order of 15 September, Decree of 23 September and Decree of 16 October), France introduced a reform of the insolvency section in the Commercial Code, which entered into force on 1 October 2021, to implement the EU Insolvency Directive No. 2019/1023 dated 20 June 2019, as well as to definitively enact some of the COVID-19-related measures; it also adopted specific measures to assist companies who benefitted from government support plans and other relief measures to face the "return to normal".

The measures have been summarised below.

Improved Detection of Weak Businesses	France introduced an increased alert mechanism through various actors, such as external auditors, financial institutions, tax authorities etc., in order to allow an early detection of financial difficulties, so that these difficulties can be addressed in the most effective manner. The presidents of the French commercial courts received increased powers to assist in such detection.
Increased Attractiveness of Preventive Procedures	France has introduced measures to increase the interest of preventive measures, such as the "conciliation" procedure, which is carried out when companies are facing financial difficulties, but are not yet insolvent. The attractiveness is increased through various measures: • Suspension of enforceability of receivables of creditors during the conciliation ("*délai de grâce*"), even prior to any formal notice or legal action from the creditors. Payments due can be suspended or paid through installments during the conciliation process. Guarantors can also benefit from the suspension of claims during the conciliation. • Securities can now be granted during the conciliation period and be fully effective in the event of insolvency. • The confidentiality of the conciliation process has also been reinforced. • The recourse to a three-month *ad hoc* administrator is now possible during the 18 months that follow the signing of the restructuring plan, if the company has fewer than 10 employees and is facing issues caused by the pandemic. The cost of this procedure has been set at €1,500 for companies of fewer than five employees, and €3,000 for companies of five to 10 employees.
Assistance in Debt Restructuring	This measure has been designed for large corporations or companies with individual characteristics in their field. Businesses that have more than 50 employees or are in need of debt restructuring may be assisted by a debt restructuring and insolvency prevention officer "*le commissaire aux restructurations et à la prevention des difficultés*". Companies of more than 400 employees may benefit from the assistance of the interministerial committee for industrial restructuring "*comité interministériel de restructuration industrielle*".

Increased Efficiency of Safeguard Proceedings	• The duration of safeguard proceedings to agree on a restructuring plan, which are available to solvent companies facing serious difficulties (before administration or liquidation proceedings), has been reduced from 18 to 12 months. The rule is now that any extension granted after the first six months can only be up to a maximum of another six-month period and may only be granted upon a duly reasoned request for extension. • The payments under the safeguard restructuring plan must be of a minimum of 5% of the amount of each receivable after the third year and 10% after the sixth year. • There is the possibility to give security during the proceedings. • The changes have facilitated the possibility of disposing of certain non-essential assets of the company. • Secured creditors must declare their receivables (also in administration proceedings). • Any "classes of interested parties" constituted under the new regime, in the context of safeguard proceedings, remain the same in case of conversion into administration proceedings.
Extension of "Accelerated" Safeguard Proceedings	France has extended the use of accelerated safeguard proceedings, as introduced during the COVID-19 pandemic. This procedure is now available to all companies irrespective of their size. It can concern all or only part of the creditors of the debtor. It can be initiated only by a company that is not yet insolvent (but facing financial difficulties) and which has been under prior conciliation. The company must be able to propose a restructuring plan within two months (with a possible extension to four months maximum), which means that an agreement with creditors must be reached in a very short period. Another novelty is the obligation to constitute "classes of interest parties" for these proceedings. In case of failure (i.e. no restructuring plan has been voted for), the proceedings end. Since 1 January 2022, this measure is no longer available to natural persons whose assets do not include any real estate.
Security in Case of Injection of New Money	In the context of safeguard and administration proceedings, any injection of cash into the business is rewarded with a special security (paid in second rank). The investment must be authorised by the court and made public. This measure promotes the injection of new money into the business to maintain and boost activity.

Increased Protection and Participation of Creditors	The French reform created an obligation for: • Companies under accelerated safeguard proceedings • Companies of more than 250 employees and more than €20 million turnover, or companies with more than €40 million turnover, to establish classes of affected parties These include creditors (secured and unsecured), as well as shareholders. The administrator establishes those classes based on the nature of the claim (as opposed to the nature of the creditor). The classes then vote – at a majority of two out of three expressed votes – on the proposed plan (or can propose an alternative plan in administration proceedings). The tribunal exercise special control where an affected party or a class has refused to vote for the plan and can, in certain circumstances, adopt the plan despite the rejection by certain classes of affected parties. In this assessment, the court takes into account the best interests of affected parties and the priority of creditors with securities or of a higher rank, which must be fully paid before any other creditor of lower rank is paid.
Silence Equals Acceptance	In the event of an amendment to a restructuring plan (in safeguard or administration proceedings), the silence of creditors on the proposed plan now amounts to acceptance. This measure is not applicable where classes of interested parties have been constituted.
Facilitation of Professional Recovery/Second Chance	This procedure, which allows debtors to erase their debts in under four months, has been improved by excluding the exempt property from the calculation of the debtor's assets. The measures aim at giving a second chance to honest directors of distressed or insolvent companies.
Financial Support	Some of the financial support measures that remain available to distressed companies are: • Solidarity funds • Government-guaranteed loans (available to all businesses that suffered losses during October 2021 – these businesses must have filed their request before 31 January 2022) • Exceptional loans (available for small companies of fewer than 50 employees, that could not benefit from a government-guaranteed loan) • Rescheduling of bank loans • Furlough of employees
Health Crisis Exit Procedure	This procedure has been available since 2 June 2021[1], may be commenced only at the debtor's initiative, and is aimed at small- and medium-sized companies that have less than 20 employees, a total balance sheet below €3 million, and that have ceased all payments. The debtor lists all of its debts that will be taken into account in the restructuring plan. The procedure lasts no longer than three months. The plan, adopted within three months of the opening of the proceedings, is enforceable against both the debtor's guarantors and its co-obligors. The procedure has no impact on the employees, who continue to be paid by the debtor. This procedure is available until 2 June 2023.

[1] Established by Article 13 of Law No 2021-689 dated 31 May 2021.

Germany

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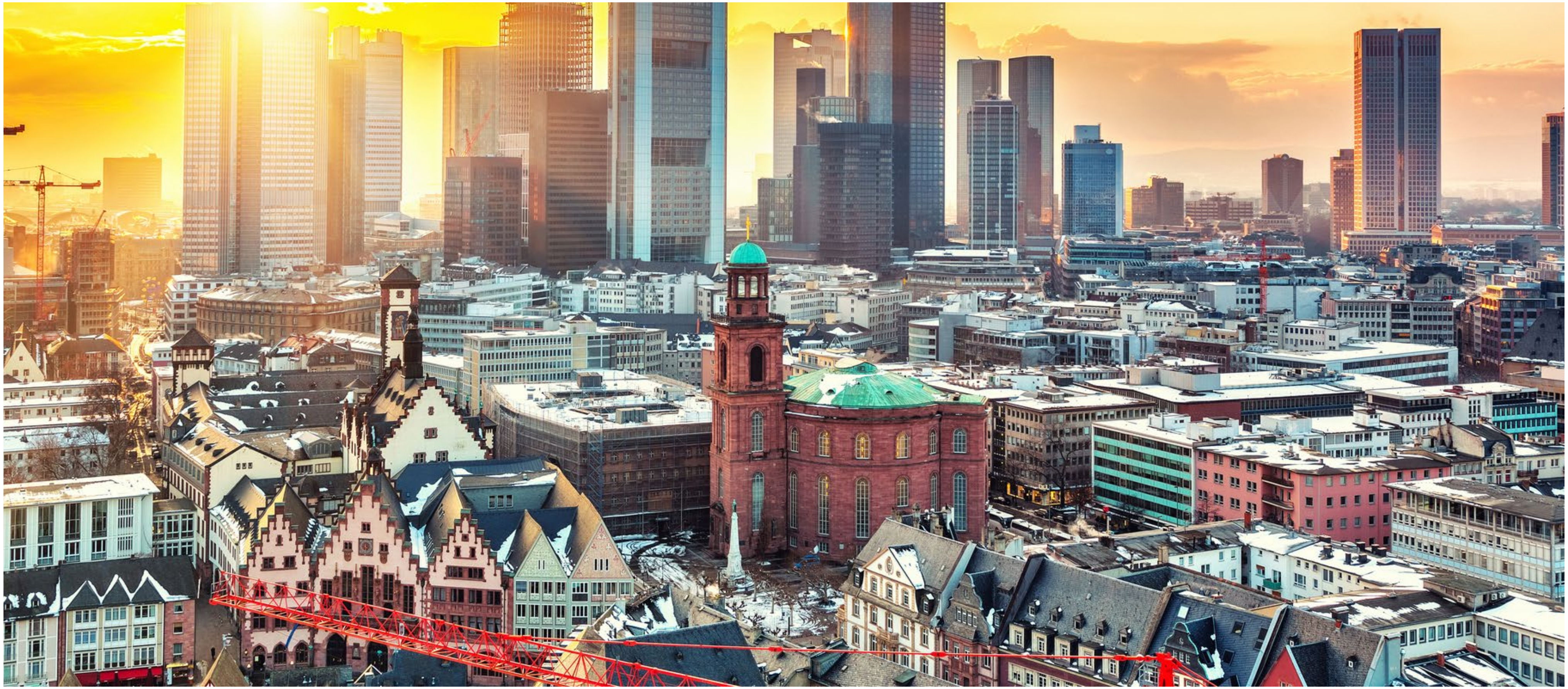
	Germany made a number of changes to its insolvency and related laws as a result of COVID-19; some of these have now expired including suspending the obligation to file for bankruptcy, however some measures still apply. Also, with effect from 9 November 2022, further temporary amendments to German insolvency law provisions were put in place to mitigate the consequences of the current crisis.

General Amendments to the German Insolvency laws	German insolvency laws were generally amended with effect from 1 January 2021: • The timeline to file for insolvency in case of over indebtedness has been extended to up to 6 weeks (instead of 3 weeks as applicable until the end of 2020). • When assessing over-indebtedness, the timeline for a positive going-concern prognosis will generally be set to 12 months. • A new preventive restructuring framework for enterprises has been introduced (implementation of the European Directive on the Preventive Restructuring Framework).
Ongoing Protection of Measures that Occurred During the Suspension Period initiated in 2020 as a response to Covid-19	In order to give affected companies the opportunity to continue their business and eliminate insolvency risks, the suspension of the obligation to file for insolvency was suspended for certain COVID-19 triggered insolvencies as of 1 March 2020. The suspension period expired (on 30 April 2021). However, the suspension was supported by additional regulations that will also be recognised in future insolvency proceedings: • Corporate law prohibits certain payments when grounds for insolvency exist. These prohibitions have been relaxed during the applicable suspension period. Transactions made in the ordinary course of business, especially those that serve to maintain business operations or to implement a restructuring plan, are deemed to be made with the diligence of a prudent manager, and will not trigger any liability for the manager. • New loans granted during the applicable suspension period by banks and other lenders will be protected as follows: i. Repayments of such loans made until 30 September 2023. ii. Loans granted during the applicable suspension period, as well as the secured collateral for such loans, cannot be challenged in a subsequent insolvency. This will only apply to new loans; mere extensions of preexisting loans will not be protected. Collateral granted for such loans is also protected accordingly. • Newly granted loans by shareholders during an applicable suspension period also have additional protections – repayments of such loans made until 30 September 2023 will not be considered disadvantageous to creditors, and cannot be challenged. Such loans will also not be subject to subordination in insolvency proceedings pursuant to Section 39(1) no. 5 of the German Insolvency Code in case that a subsequent insolvency will be commenced until 30 September 2023. However, such protection does not apply to collateral granted for such loans. • In cases where a company's creditor agreed prior to 28 February 2021 to defer payments, and has received payment of such deferred liability prior to 1 April 2022, such payment will not be subject to any voidance claims of the insolvency administrator in case of the company's subsequent insolvency. • Provisions have also been made to alleviate the concerns of distressed companies' contractual counterparties (such as suppliers, landlords and lessors). Contractual counterparties' receipt of payment (whether through the settlement of claims or through the furnishing of collateral) while the debtor was insolvent during the suspension period will be protected and cannot be voided in the event that the debtor's restructuring efforts fail and the debtor commences bankruptcy proceedings. The protection will apply to any performance in lieu of or on account of performance, payments made by a third party at the debtor's instruction, the furnishing of collateral other than that which was originally agreed if it is not of greater value, the shortening of time allowed for payment and the relaxation of payment terms. This restriction on avoidance actions also applies to companies that are not obliged to file an application (such as sole traders and limited partnerships with a natural person as the general partner) and debtors who are neither insolvent nor over-indebted. However, the restrictions of avoidance do not apply where the other party was aware that the debtor's efforts to restructure and finance the company were not suited to remedying the insolvency that occurred.

Further temporary amendments to the German Insolvency Code	With effect from 9 November 2022 until 31 December 2023, the following measures have been put in place: • The forecast period relevant for the going concern prognosis which is part of the test whether a company has to file for insolvency due to over-idebtedness, has been reduced from 12 months to 4 months. • Similarly, the periods for which a financial plan has to be provided (i) in the context of self-administration proceedings, and (ii) in the context of a restructuring proceeding pursuant to the Law on the Stabilisation and Restructuring Framework for Enterprises (StaRUG) is also being shortened from 6 months to 4 months. • The maximum period to file for insolvency in cases of over-indebtedness is extended from 6 weeks to 8 weeks to provide companies with more time to restructure out of insolvency, or alternatively to properly prepare restructuring proceedings pursuant to StaRUG or self-administration proceedings.



Italy

Italy made a number of changes to its insolvency and related laws as a result of COVID-19; some of these have now expired while others still apply.

Governmental Measures and Policies

Measures Concerning Arrangements With Creditors and Restructuring Agreements	The implementation of procedures aimed at obtaining an agreement among creditors or agreements on debt restructuring (*concordati preventivi* and *accordi di ristrutturazione omologati*) scheduled between 23 February 2020 and 31 December 2021 has been given a six-month extension. For ongoing proceedings aimed at obtaining an agreement among creditors or an agreement on debt restructuring, in which the court approval hearing has not yet been held, the company may request the granting of a period of up to 90 days to file a new plan and a new proposal of arrangement or a different restructuring agreement, in addition to the normal extension periods granted by the existing insolvency laws. For these proceeedings, until 31 December 2022, debtors that have requested admission to an arrangement with creditors without a defined plan, or agreements on debt restructuring, can withdraw their request provided that they have filed a debt recovery plan with the Companies Register, subject to court approval. The withdrawal request can be submitted within a deadline set by the court, ranging from 60 to 120 days from the beginning of the proceedings and extendable by 60 days.
New Insolvency Code and Insolvency Directive	On 15 July 2022, the new Insolvency Code entered into force after its publication in the Official Gazette of the Italian State. Please note that the new Insolvency Code already trasposes the provisions of the EU Directive 2019/1023 (the so-called *Insolvency Directive*), concerning preventive restructuring frameworks, exoneration and disqualifications, and measures to increase the effectiveness of restructuring, insolvency and exoneration proceedings.
Register of persons entrusted by the judicial authority	On 21 June 2022, the Decree of the Ministry of Justice No. 75 of 3 March 2022, on "Regulations on the functioning of the register of persons entrusted by the judicial authority with the functions of management and control in the procedures referred to in Article 356 of Legislative Decree No. 14 of 12 January 2019, on the Insolvency Code" was published in the Official Gazette of the Italian State. This regulation provides the opportunity of registration by individuals who provide evidence that they meet the professional and honorability requirements set forth in Article 356, paragraphs 2 and 3, of the Insolvency Code, who are intended to perform, on behalf of the Court, the functions of receiver, judicial commissioner or liquidator, in the procedures set forth in the Insolvency Code.

Poland

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	Poland has temporarily suspended bankruptcy filing obligations as a result of COVID-19 and implemented certain measures to allow restructuring.

Suspension of the Obligation to File for Bankruptcy	According to Polish law, a debtor needs to file for insolvency within 30 days following the occurrence of insolvency, i.e. (i) it has lost the ability to pay its debts when they mature or to discharge its debts (there is a presumption that the debtor is insolvent if the delay in payment exceeds three months); or (ii) certain cash liabilities exceed a debtor's assets and such state of affairs persists for more than 24 months. Following the Act of 16 April 2020 on Specific Support Instruments in Connection With the Spread of the COVID-19 Virus during the pandemic emergency or pandemic (as declared in compliance with applicable legislation) the term for insolvency filing is currently suspended and if the 30 day period had already commenced, it is halted and will start again. For a debtor company, the temporary suspension of filing obligations releases the representatives of the debtor (e.g. the members of the management board of the companies) from liability for a delayed insolvency filing. However, it does not release the members of the board from considering and filing a motion for a restructuring proceeding as provided for under the Restructuring Law. The legislation also provides that, if bankruptcy occurs during the period of the pandemic emergency or pandemic, it is deemed to be caused by COVID-19 and it extends the periods provided for by the Bankruptcy Law, the calculation of which is dependent upon the day of the bankruptcy filing. The Polish government declared a state of pandemic in Poland on 20 March 2020, however since 16 May 2022, the state of pandemic was lifted and replaced with "state of pandemic emergency" that is still in force. This change does not influence the suspension described above.
Introduction of Electronic Insolvency and Restructuring Proceedings	Since 1 December 2021, all applications for declaration of bankruptcy (both by the debtor or by the creditor) or opening any type of restructuring proceedings should be filed through the electronic portal maintained by the Minister of Justice. All subsequent correspondence in the proceedings will be delivered through the portal and should be submitted through the portal. Such applications should be signed electronically either by qualified electronic signature or by trusted signature (ePuaP). Further, the portal provides access to one register, which discloses data on persons and entities against whom restructuring and bankruptcy proceedings are conducted, as well as persons against whom enforcement was conducted, which was discontinued due to ineffectiveness, and natural persons against whom enforcement is pending maintenance and enforcement of state budget receivables arising from benefits paid in the event of ineffectiveness of the enforcement of alimony in arrears, with the fulfillment of these benefits for a period longer than 3 months.The portal with access to all bankruptcy and restructuring proceedings discloses applications filed after 30 November 2021 and disclosable after this date.

Slovak Republic

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	Law on Solving the Likelihood of Insolvency

Overview of the Law	As of 17 July 2022, a new law on solving impending insolvency has become effective and replaced the provisions of the law on temporary protection for companies from insolvency that was enacted in response to COVID-19. The new law transposes the EU Directive 2019/1023 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency). The scope of the law is to solve the likelihood of insolvency due to payment inability of the debtor (who is a legal person) by: • Public preventive restructuring • Non-public preventive restructuring The law also deals with the issue of the insolvency of the debtor that occurred during the public preventive restructuring.
Overview of Certain New Terms Used in the Law	The law provides a list of new terms that are used throughout the law. Among them are definitions of different kinds of creditors: • "Petty creditor" is a creditor whose claims against the debtor are not more than €500. • "Small creditor" is a creditor who has at least 10 employees, and according to the last financial statement has revenue and value of assets lower than €2 million. • "Relevant creditor" is a creditor whose unrelated claims represent at least 20% of all unrelated claims. • "Important creditor" is a creditor whose unrelated claims represent at least 5% of all unrelated claims. • "Disputed creditor" is a creditor whose claims are at least partially disputed by debtor. • "Public-law creditor" is a creditor whose claims against the debtor arose from a public-law relation. • "Known creditor" is a creditor on whom the debtor is to account for as a creditor, as well as a creditor with a claim the debtor knows or must know.

Public Preventive Restructuring (PPR)	PPR is a right of a debtor (that is a legal person) that faces the likelihood of insolvency due to payment inability. The debtor has to be registered in the Register of Partners of the Public Sector. The court shall: • Approve the PPR if the debtor is in the likelihood of insolvency and no other obstacle presumed by the law has occurred • Not approve the PPR if it can be presumed that the enterprise is not viable, especially when: – Reasons for dissolution of the debtor exists – The debtor was dissolved or is in liquidation proceedings – The effects of declaration of bankruptcy or commencement of restructuring are in force towards the debtor – There is an ongoing enforcement proceeding towards the debtor for the payment – The enforcement of lien or other security right toward debtor has commenced – The debtor does not practice sound bookkeeping or does not file the annual financial statement into the collection of documents – The debtor has performed activities that threaten its financial stability and has not repaired their consequences The statutory body of the debtor shall consider the use of a third-party consultant during the solving of the likelihood of insolvency. The third-party consultant shall have relevant knowledge and experience, as well as technical and personal equipment, and shall have the faith of the relevant creditors. The debtor is obliged to use the services of a third-party consultant during the PPR. **Insolvency of the debtor during the PPR:** • If during the PPR the insolvency of the debtor occurs, the statutory body is obliged to inform the court, bankruptcy trustee, creditors' committee and creditors that agreed to the temporary protection. • The debtor may continue with the PPR even after the insolvency occurred, if it can be reasonably presumed that the debtor will be able to pay all of its new obligations in a timely manner, and the public plan will be confirmed by the court or the debtor will avert the insolvency in another way.

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Temporary Protection During Public Preventive Restructuring	The new law superseded the previous law on temporary protection of enterprises in financial troubles that was enacted to address the negative impact of COVID-19. The law sets conditions for when the court will grant the temporary protection to the enterprise.
	
	The court will grant a temporary protection for a period of three months, together with the issuing of the decision on approval of PPR, if:
	
	• More than half of the creditors (counted in accordance with the amount of their unconnected claim) agreed with the granting of the temporary protection.
	• At least 20% of all creditors (counted in accordance with the amount of their unconnected claims) agreed with the granting of the temporary protection and, in the draft plan, the partial forgiveness of the claim or the recognition of its partial unenforceability does not exceed 20% of the claim for any of the creditors, and the deferment of repayment of any of the claims does not exceed one year.
	
	The temporary protection can be prolonged on the request of the debtor for an additional three months, presuming that all conditions are fulfilled. The total length of temporary protection shall not exceed six months.
	
	Dispositive restrictions during the temporary protection:
	
	• The creditors may set the acts of the debtor that shall be approved by the third-party consultant.
	• The debtor is obliged to restrict its activity only to the acts that do not change the nature of their assets, obligations or obligatory relations; other acts may be done only with the consent of the creditors' committee.
	• If the debtor makes an act requiring approval by the creditors, the creditors or the bankruptcy trustee may oppose such acts, unless the other party proves that such acts were not detrimental to the creditors.
	
	Effects of the temporary protection means that during the temporary protection:
	
	• The debtor is not obliged to file for insolvency.
	• Insolvency or restructuring cannot be declared in accordance with the general law on insolvency.
	• It is not possible to undergo enforcement proceedings against the debtor – such proceedings shall be interrupted, except for the enforcement of:
	  - A claim that occurred during the realisation of the joint program of the Slovak Republic and the EU financed from EU funds
	  - Claims arising out of the decision of the EU body, institution, office or agency
	  - Tax arrears, customs duty, fines or other payments levied by customs bodies
	• The debtor is entitled to fulfill the new obligation before the old one, and unrelated obligations before related obligations.
	• It is not possible to commence the enforcement of the security right for the debtor's assets.
	• It is not possible to set-off related claims with the debtor.
	
	Crisis financing:
	
	• The debtor may, for the purposes of securing the standard operation of its enterprise with the approval of the creditors' committee during the temporary protection, accept crisis financing. Crisis financing is financing that was agreed upon prior to the granting of temporary protection and the financial means were drawn by the debtor with the approval of creditors' committee after the granting of the temporary protection.
	• The means of crisis financing may be used only for the purposes of securing the proper operation of the enterprise during the temporary protection. It cannot be used for the purposes of the refinancing of other financing that was provided to the debtor prior to the temporary protection.

Public Plan	The public plan shall be drafted in a way to ensure that the just division of the value of the assets of the debtor among the affected creditors is certain, clear, real, sustainable and, if possible, consensual. The public plan shall contain all data that the affected creditors need to vote on. The public plan shall not diverge from the draft concept of the plan in a substantial way. Substantial diversion is understood in particular if the expected level of satisfaction of the creditor in the group, according to the public plan, differs by more than 10% from the lower limit of the range of the expected level of satisfaction in the concept of the plan. Legal acts made during the PPR that provide an affected creditor with an advantage not presumed by the public plan are invalid. **Restructuring measures:** • These are measures of an economic and legal nature that aim to avert the insolvency of the debtor and secure the viability of the enterprise. • Examples: - Restructuring of obligations of the debtor against the affected creditors (e.g. adjournment of payments or partial forgiveness) - Restructuring of assets of the debtor (e.g. selling off assets) - Restructuring of the capital structure (e.g. issuing of new shares, changing of articles of association) - Restructuring of human resources (e.g. termination of employment contracts) - Financing of restructuring measures **Assessment, approval and confirmation of the public plan:** • Assessment: - The public plan shall be assessed by the bankruptcy trustee who has also the right to fix incorrect provisions. • Approval: - The public plan shall be approved by the creditors on the meeting of creditors, which shall take place no earlier than 60 days and no later than 70 days from the day of approval of PPR. - The public plan is approved if every group of creditors voted for its approval with quorums set out for each group in the law. - If any group of creditors do not approve the public plan, the debtor is entitled to ask the court to replace the consent of the group by the court's decision. • Confirmation of the court: - The debtor is entitled to file the plan for the court's approval within 7 days of the end of the approval meeting, and also send the electronic version of the plan to every creditor who didn't approve the plan. Any creditor that did not vote for approval has the right to send their comments within 10 days. - The court decides on confirmation of the plan within 30 days from the lapse of the period allowed for sending the statement to creditors that did not approve the plan, as noted above.

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Non-public Preventive Restructuring (NPR)	The provisions relating to NPR may apply to the debtor who is in the likelihood of insolvency, and the effects of a declaration of bankruptcy or the initiation of restructuring proceedings do not apply to them. These debtors can agree on a non-public plan in a non-public preventive restructuring with one or more creditors who are subject to the supervision of the National Bank of Slovakia or another similar institution abroad. If the creditors agree with the NPR, the NPR will commence after the debtor notifies the court on the commencement of NPR. The debtor is obliged to file a non-public plan to the court within three months of the commencement of NPR, otherwise the NPR proceedings end. Assessment of the non-public plan by court: • The non-public plan is confirmed by the court if, within 15 days of the filing of the non-public plan, the court does not decide on rejection of the plan. • The court will reject the non-public plan if it finds that the non-public plan could harm the asset interests of the creditors that are not participants of the non-public plan. Effects of the confirmed non-public plan: • The confirmed non-public plan can be opposed only in the case that at the time of the agreement of the non-public plan, conditions for such agreement were not fulfilled. • The non-public plan is binding only to the creditors who agreed with it in writing.

Spain

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The Spanish government implemented a series of measures after declaring a nationwide "state of alert" in response to COVID-19. Most of these measures have now ended, however, the implementation of Directive 2019/1023 into Spanish law improves the pre-insolvency processes for Spanish companies.

Preventive Restructuring Framework Directive	A new preventive restructuring framework for enterprises has been introduced (implementation of the European directive on preventive restructuring frameworks). The directive introduces restructuring plans, alongside other features, to improve the effectiveness and efficiency of the insolvency procedure currently in Spain. Additionally, the law that included this implementation in Spain formalised the practice of "prepack" insolvency proceedings. This was previously admitted in Barcelona and Madrid under differing circumstances, but this practice has now been formalised.

UK

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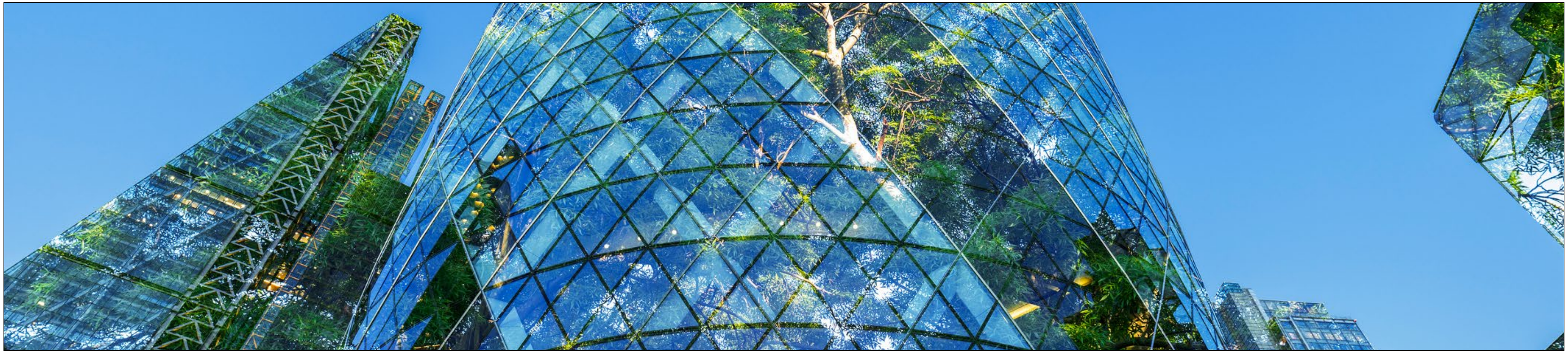
	The Corporate Insolvency and Governance Act 2020 (Act) included a temporary relaxation of the laws around wrongful trading, a temporary ban on winding up petitions and permanent changes to the UK's insolvency regime, including a new moratorium, protection of supplies (introducing an ipso facto regime) and restructuring plans, discussed below. The temporary measures no longer apply and the insolvency regime has returned to its pre-pandemic operation.

Corporate Moratorium	The Act introduced a new procedure that enables a company to apply for a moratorium. The moratorium provides a simple way for companies that cannot or are unlikely to be able to pay their debts, to obtain the benefit of a moratorium for an initial 20 business days, with the option to extend that by a further 20 business days. The moratorium can be extended for up to 12 months with court and/or creditor consent. Similar to a Chapter 11 restructuring in the US, the company remains in the directors' control during the period of the moratorium, but instead of decisions being monitored by the court, an insolvency practitioner will monitor the position. This is a standalone process and is designed to give companies breathing space from creditor pressure and a payment holiday from some creditors, enabling a company time to consider its rescue options, which may include refinancing, administration, CVA, liquidation or proposing a restructuring plan.
Protection of Supplies to Enable a Company to Continue Trading (Ipso Facto)	The Act introduced a provision to the Insolvency Act 1986 that prevents a supplier from terminating a contract because of an insolvency event or because of a pre-existing right to terminate that has not been exercised before the company enters into an insolvency process. The so-called "ipso facto regime" prevents suppliers terminating a contract and jeopardising the rescue of a business and applies to UK insolvency procedures including administrations, CVAs and liquidations, as well as the moratorium. To protect suppliers impacted by this prohibition, any supplies made post-insolvency will be paid by the company and if the supplier will suffer hardship as a consequence, the supplier can apply to court for an exemption to this provision.
Restructuring Plan	This tool enables companies to propose a plan that (subject to obtaining requisite consent and court approval) will bind all creditors whether or not they vote in favour of the plan, through the use of "cross-class cram down". The process is similar to a scheme of arrangement but enables companies to bind dissenting and secured creditors. The plan can be used in conjunction with the moratorium.



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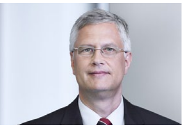

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