



SIMPLIFIED RESTRUCTURING PROCEEDINGS

New restructuring tool in Poland
introduced by an Anti-crisis Shield 4.0
in connection with the Covid-19 pandemic

Report
after Q3 and Q4 2020

January 2021

IN COOPERATION WITH
THE INSO SECTION
OF THE ALLERHAND INSTITUTE



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SEKCJA PRAWA UPADŁOŚCIOWEGO
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SIMPLIFIED RESTRUCTURING PROCEEDINGS

Most important data

From July 2020 there has been a noticeable growth in opening restructuring proceedings, which resulted mainly from the economic slowdown in the aftermath of the Covid-19 pandemic.

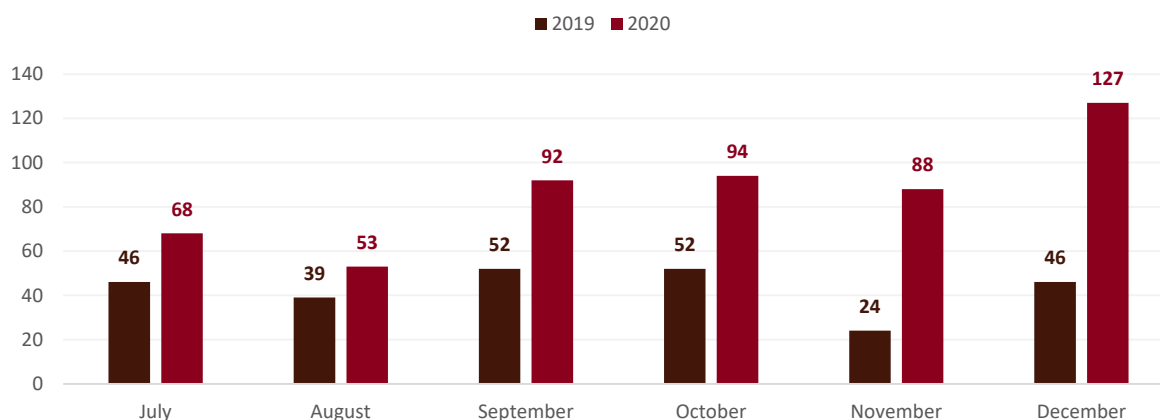
RESTRUCTURING PROCEEDINGS IN POLAND

second part of 2019

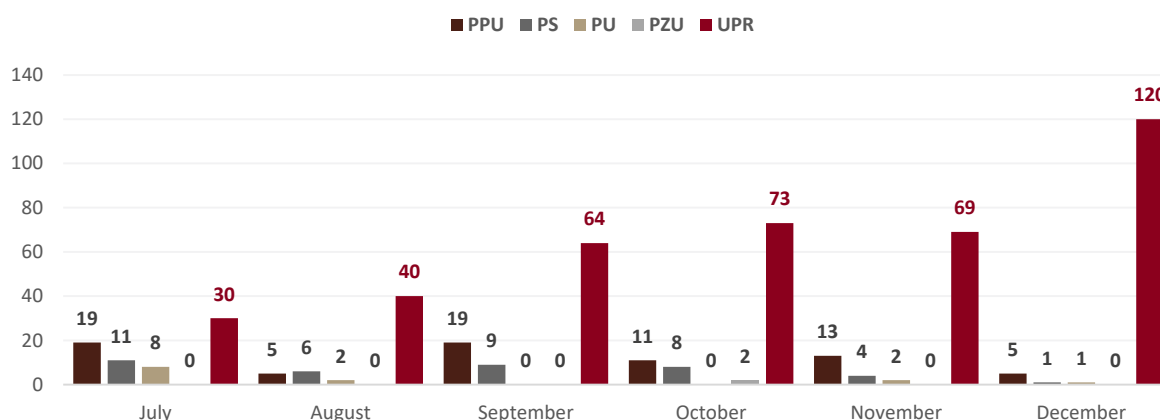
259

second part of 2020

522



SIMPLIFIED RESTRUCTURING PROCEEDINGS COMPARED TO OTHER RESTRUCTURING PROCEEDINGS



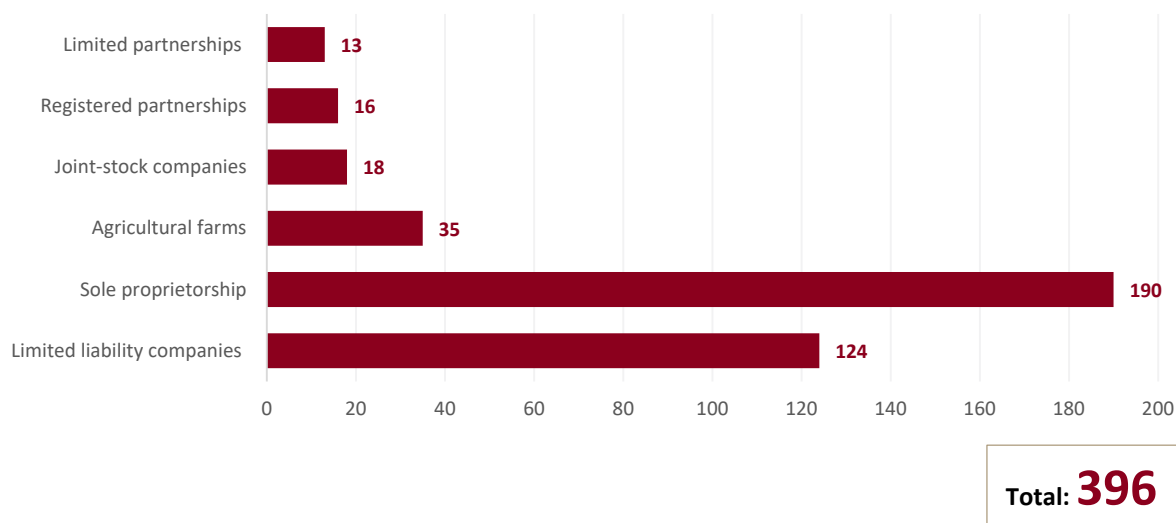
Legend:

UPR – Simplified Restructuring Proceedings
PPU – Accelerated Arrangement Proceedings
PZU – Proceedings to Approve the Arrangement
PS – Remedial Proceedings
PU – Arrangement Proceedings

TOTAL PROCEEDINGS JULY – DECEMBER 2020

UPR	396
PPU	72
PS	39
PU	13
PZU	2

SIMPLIFIED RESTRUCTURING – LEGAL FORMS OF BUSINESS ACTIVITY



SIMPLIFIED RESTRUCTURING PROCEEDINGS ACROSS IN VOIVODSHIPS IN POLAND



SIMPLIFIED RESTRUCTURING PROCEEDINGS

Specific data

Out of 70 Simplified Restructuring Proceedings opened in July and August 2020 (until the end of December the debtors should have filed their applications to approve the arrangement) there were:

- 7 concluded and approved (although not finally) arrangements
- 37 concluded arrangements, awaiting approval
- 26 not-concluded arrangements
- 2 cancellations of the effects of making the announcement.

Simplified Restructuring Proceedings stand for 50,5% of all restructuring proceedings in 2020, despite the relatively recent introduction of the relevant law from June, 24th 2020.

The data show that among Simplified Restructuring Proceedings opened in July and August an arrangement has been concluded in 62% of cases.

Comparing the abovementioned data to the previously carried-out court restructuring proceedings, in the years 2016-2019 approved arrangements marked app. 28% of all proceedings.

In our next Report we will carefully analyze the data regarding approved arrangements, but even now during a court query we found not a single refusal to approve an arrangement.

Yet, it is worth mentioning that courts have not processed most of the filed applications and cases from September still await processing by the court.

2020

Opened restructuring proceedings*	778 (a rising trend)
Simplified Restructuring Proceedings	396
Sectors	
Trade	146
Industry	123
Services	219 (important growth y/y.)
Declared insolvencies of businesses *	503

2019

Opened restructuring proceedings	469
Sectors	
Trade	106
Industry	120
Services	95
Declared insolvencies of businesses	579

Since inception, these proceedings amount to 75% of all restructuring proceedings.

* data based on announcements in the Court and Commercial Gazette (Monitor Sądowy i Gospodarczy) may differ when there are delays in publishing.



Comment by Karol Tatara

**A QUALIFIED RESTRUCTURING ADVISOR
AND AN ATTORNEY-AT-LAW**

It has been 6 months since Simplified Restructuring Proceedings came into force. One can observe a significant rise in the number of opened proceedings. Simplified Restructuring Proceedings constituted 50% of all restructuring proceedings in 2020, even though this legal tool was only introduced from June 24th, 2020, by the Anti-crisis Shield 4.0 and the first announcement was published on July 1st.

All Simplified Restructuring Proceedings announced in the Court and Commercial Gazette (MSiG) amount to 396 cases, which clearly demonstrates that out-of-court restructuring has gained popularity among businesses. In December, Simplified Restructuring Proceedings accounted for 95% of all restructuring cases.

We have also observed higher activity among creditors. Having analyzed our research and contacts with restructuring advisors, it clearly follows that applications for cancellation of the effects of making the announcement (and protection of the debtor) are more and more popular, although so far the courts have accepted these applications only in 2 cases, which confirms that Simplified Restructuring Proceedings are not abused by debtors. It is also worth mentioning that cancellation of the effects of making the announcement does not mean the end of the proceedings – once protection is cancelled, the arrangement can still be made. These data show, above all, that creditors are active in these proceedings.

It is worth emphasizing a considerable number of concluded arrangements – almost 2/3 majority – which demonstrates that Simplified Restructuring Proceedings are popular and efficient. We will analyze the related data in depth, but we can already confidently conclude at this moment that Simplified Restructuring Proceedings should be developed and implemented as a permanent tool within the Polish legal system.

We propose to gather conclusions from the practical functioning of Simplified Restructuring Proceedings and decide to extend the life of this type of proceedings - as they are for now a temporary solution, as one of the forms and means of implementing the Second Chance Directive that should be transposed into the Polish legal system by July 17th, 2021 (unless this deadline is extended).

SIMPLIFIED RESTRUCTURING PROCEEDINGS

Authors

Tatara & Partners Restructuring & Insolvency Law Firm is one of the leading law firms in Poland in the restructuring and insolvency law field. The Law Firm serves all stakeholders of the restructuring and insolvency proceedings, including debtors seeking to open restructuring proceedings or declare insolvency, creditors, trustees, court supervisors and investors interested in Distressed Assets.

The specialization of Tatara & Partners Restructuring & Insolvency Law Firm is to combine the issues of insolvency law and reorganization proceedings with widely understood commercial law, in particular with company law and capital markets law.

Tatara & Partners Restructuring & Insolvency Law Firm as well as Karol Tatara individually are regularly listed among leading lawyers and law firms:

- The Law Firm is ranked as one of the top recommended law firms in Rzeczpospolita's Ranking and Karol Tatara as a leading lawyer from 2015
- Karol Tatara has been mentioned in international Who's Who Legal 2019 and 2020 rankings within Restructuring & Insolvency
- The Law Firm was acknowledged for its engagement in the legislative anti-pandemic activity. The organizers of the Ranking acknowledged Karol Tatara and his team for creating and evaluating the so called 'Covid Shields' with regard to business law. Karol Tatara took part in restructuring and insolvency law related issues, including Simplified Restructuring Proceedings
- Karol Tatara received Band 4 individual recommendation in international Ranking Chambers Europe 2020 Restructuring / Insolvency Poland.

More info: <https://tatara.com.pl/kancelaria-prawa-gospodarczego-i-upadlosciowego-karol-tatara-english-version/>

Alerion sp. z o.o. is a restructuring company. It is a limited liability company which is entitled to act as a trustee, court supervisor or administrator in restructuring proceedings or bankruptcy proceedings. In particular, the company performs the function of an arrangement supervisor in Simplified Restructuring Proceedings. It also provides restructuring advisory services. Its management board comprises Karol Tatara, Maciej Knopek and Anna Czarnota.

More info: www.alerion.pl

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Methodology

The report is based on an analysis of the announcements concerning the opening of restructuring proceedings, which have been published in the Court and Commercial Gazette (Monitor Sądowy i Gospodarczy) in the period between July and December 2020. Although Simplified Restructuring Proceedings are only available from June 24, 2020, the first announcements about the opening of the proceedings appeared in the Court and Commercial Gazette on July 1, 2020. Additionally, the authors contacted the courts to determine whether applications for approval of the concluded arrangements have been received in the proceedings opened in July and August 2020. The data on insolvency and bankruptcy cases come from the Court and Commercial Gazette.

We have also obtained valuable information from restructuring advisors we contacted. We would like to express our gratitude for their help and providing valuable information!



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