

INSOL Europe/Lexis®PSL Joint Project on ‘How EU Member States recognise insolvency and restructuring proceedings of a third country’: consolidated table



Lexis®PSL are working with INSOL Europe on a joint project to obtain articles from INSOL Europe’s national correspondents in the EU Member States to produce a table summarising their findings (also incorporating information from Lexology Getting The Deal Through (GTDT)).

We look at how EU Member States would recognise insolvency or restructuring proceedings commenced in a third country, such as the UK (post Brexit), the US, Japan, Australia or Canada. This table only provides a guide to the general principles applicable and you should always contact local lawyers in the relevant jurisdiction to check the current measures in force and the impact of any particular circumstances or nuances on your case.

The questions

The first question considers whether the UNCITRAL Model law on Insolvency has been adopted in that particular country and, if not, whether there are any plans to consider its adoption. Application of the UNCITRAL Model law by a country will greatly improve visibility on the process and likelihood of the third country gaining recognition of its relevant insolvency/restructuring proceeding.

The second question considers how each country will recognise insolvency/restructuring proceedings commenced in a third country (ie a country which is not an EU Member State, such as the UK (post-Brexit), the US, Japan, Australia or Canada), which may be through the Lugano Convention, Hague Convention, Rome I or other private international law rules.

The third question looks at how this approach would apply specifically to the example of seeking recognition of proceedings commenced in a third country (the UK) in respect of an English Part 26 scheme of arrangement or Part 26A restructuring plan.

The final column gives links to any further reading and author accreditations in each case.

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information

Country	(i) Has the UN-CITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
Austria	No	Austrian courts will recognise and enforce foreign insolvency proceedings insofar as the standards of the foreign proceedings are comparable to Austrian insolvency proceedings and provided that the debtor's centre of main interests (COMI) is located in the foreign jurisdiction. In the case of recognition of foreign insolvency proceedings, the foreign administrator may also exercise the powers granted to it by local laws in Austria except with regard to coercive actions and decisions over legal or other disputes.		GTDT. For further information, see guide available on Lexis®PSL (subscription required): Restructuring and insolvency—Austria—Q&A guide
Belgium	No	The provisions of the Belgian Private International Law Code containing the conflict of laws rules relating to insolvency proceedings follow, to a large extent, the rules set out in the EU Recast Regulation on Insolvency. This means that: —insolvency proceedings falling under the Code are those existing under Belgian law (bankruptcy, judicial reorganisation, and collective debt re-		GTDT. For further information, see guide available on Lexis®PSL (subscription required): Restructuring and insolvency—Belgium—Q&A guide

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		<p>scheduling) but also foreign proceedings based on a debtor's collective insolvency, and —insolvency proceedings can be principal proceedings (ie universal proceedings having effect on all the debtor's assets) or territorial (ie secondary) proceedings (ie having effects limited to the debtor's assets located within the territory of the state where the proceedings are opened)</p> <p>The Belgian Private International Law code states that a decision in foreign insolvency proceedings, not falling in the scope of the EU Regulation on Insolvency, may be recognised and executed in Belgium. The courts will only recognise foreign decisions if certain conditions are met, such as compatibility with Belgian public order and the respect of the rights of defence, and the recognition needs relate to a final decision.</p>		
Bulgaria	No and No	The main recognition rule related to international civil procedure law is Art. 117 from the Code	Unclear: It is questionable whether Bulgaria would recognise an English scheme of ar-	INSOL Europe. For further information, see News Analysis: INSOL Europe/LexisPSL Joint

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		<p>on International Private Law: Decisions and acts by foreign courts and other foreign authorities are recognized and their execution is permitted when:</p> <ol style="list-style-type: none"> 1. The foreign court or authority was, under Bulgarian law, competent to issue the act in question; however, such competence cannot be based only on the claimant's citizenship or registration in the state of the foreign court; 2. The debtor has been served a transcript of the claim, the parties have duly been summoned and basic principles of Bulgarian law on fair hearing have not been violated; 3. No decision by a Bulgarian court between the same parties on the same legal grounds and for the same claim has entered into force; 4. No claim between the same parties, on the same legal grounds and for the same claim is pending before a Bulgarian court when the Bulgarian procedure was initiated before the foreign one; 5. Recognition and execution would not 	<p>agement or an English restructuring plan. The main points of concern are: (1) Lack of explicit legislative regulation covering recognition of such plans. (2) International jurisdiction in England based on centre of main interests other than the place of debtor's formal registration might cause problems; (3) Such plans cause the loss of rights by creditors against their will. This might raise issues of public concern although the notion is not unfamiliar in Bulgarian law. The risk is especially high in the case of a cram down by an English restructuring plan as functionally similar instruments in Bulgaria challenge the contractual nature of the plan; (4) Bulgarian legislation encourages ancillary insolvency proceedings and there is practically no instrument permitting the main IP to prevent them.</p> <p>Schemes: The chances for recognition and execution appear higher for a scheme of arrangement with no</p>	<p>Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Bulgaria</p>

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		contradict Bulgarian public order.	cram down in the case of a debtor formally registered in England. However, formal arguments and the mutuality requirement can prevent recognition here, too.	
Croatia	No	Non-EU foreign judgments can be recognised by a court order provided that: —the foreign court has jurisdiction —the judgment is enforceable under applicable foreign law —the judgment is not contrary to Croatian public order		GTDT. For further information, see guide available on Lexis®PSL (subscription required): Restructuring and insolvency—Croatia—Q&A guide
Cyprus	No	There are no private international law provisions for the recognition of insolvency proceedings commenced in countries outside of the EU Member States. Thus, in the absence of legislative framework providing for the recognition of foreign insolvency proceedings in Cyprus, such recognition may be achieved under the principles of common law or based on a bilateral agreement.	No — At this moment, there is no legal framework to ensure recognition of an English scheme of arrangement (under CA 2006, Pt 26) or an English restructuring plan (under CA 2006, Pt 26A) post-Brexit.	INSOL Europe. For further information, see News Analysis: INSOL Europe/LexisPSL Joint Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Cyprus
Czech Republic	No and No	Recognition of foreign insolvency proceedings commenced in countries	Scheme—Unclear: It is not clear what approach the Czech court would have to	INSOL Europe. For further information, see News Analysis: INSOL Eu-

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		<p>outside the EU Member States is governed by the general provision contained in section 111 (5) of Czech Act No 91/2012 Coll., on international private law, pursuant to which: Foreign decisions in matters of insolvency proceedings shall be recognised under the condition of reciprocity, provided the debtor's main interests are concentrated in the foreign state in which said decisions have been issued and provided the debtor's property in the Czech Republic is not subject of proceedings which have already commenced</p>	<p>the English scheme of arrangement. Generally, the Czech court might consider the scheme of arrangement from two possible perspectives (i) as a contract or (ii) as a court decision Plan—Yes: Following <i>gategroup Guarantee Limited</i> (see News Analysis: Gateway to recognition closed? Convening judgment determines that new UK restructuring plan falls outside scope of Lugano Convention 2007 (Re gategroup Guarantee)), the Czech court would also consider this aspect and recognise the English restructuring plan as a decision issued in the course of the insolvency proceedings. In such cases the general provision contained in section 111 (5) of Czech Act No 91/2012 Coll., on international private law, on recognition of foreign insolvency proceedings commenced in countries outside the EU Member States shall apply.</p>	<p>rope/Lexis@PSL joint project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Czech Republic</p>
Denmark	No and No	According to the Danish Insolvency Act, the Minister of Justice may lay	No: An English scheme of arrangement or an English restructuring	INSOL Europe. For further information, see News Analysis: INSOL Eu-

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		down regulations in pursuance of which decisions by foreign courts of law and authorities in respect of bankruptcy, restructuring and other similar insolvency proceedings are to have a binding effect and be enforceable in Denmark, provided that they have such binding effect and are enforceable in the foreign state where the decision has been taken and provided that such recognition and enforcement would not be obviously incompatible with the Danish legal system. Under the Nordic Bankruptcy Convention, Danish courts recognise insolvency proceedings commenced in Norway. Danish courts also recognise insolvency proceedings commenced against credit institutions and investment firms in Third Party States to the extent that the EU has agreed upon with the Third Party State in question.	plan is not enforceable in Denmark, neither prior to Brexit nor post-Brexit.	rope/Lexis@PSL Joint Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Denmark
Estonia	No and No	Yes under Chapter 62 of the Code of Civil Procedure. A court decision in a civil matter made by a foreign state is subject to recogni-	Yes and Yes	INSOL Europe. For further information, see News Analysis: INSOL Europe/Lexis@PSL Joint Project on 'How EU Member

Country	(i) Has the UN-CITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		<p>tion in the Republic of Estonia, unless:</p> <ul style="list-style-type: none"> —it is contrary to public order and the fundamental rights and freedoms of persons —the debtor did not have a chance to defend the proceedings —the decision is in conflict with an earlier decision made in Estonia in the same matter between the same parties or if an action between the same parties has been filed with an Estonian court —the decision is in conflict with a decision of a foreign court in the same matter between the same parties which has been earlier recognised or enforced in Estonia —the decision is in conflict with a decision made in a foreign state in the same matter between the same parties which has not been recognised in Estonia, provided that the earlier court decision of the foreign state is subject to recognition or enforcement in Estonia —the court which made the decision could not make the decision in compliance with the provi- 		States recognise insolvency/restructuring proceedings commenced in third country states'—Estonia

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		sions of Estonian law regulating international jurisdiction		
Finland	No	<p>The Nordic Bankruptcy Convention provides a legal framework for the cross border recognition and enforcement of bankruptcies between Denmark, Sweden, Norway, Iceland and Finland. According to the treaty, bankruptcy declared in one treaty state is recognised in all other treaty states.</p> <p>There are very few cross-border insolvency cases in Finland and consequently there is no relevant court practice to draw procedural practices from.</p>		<p>GTDT. For further information, see guide available on Lexis®PSL (subscription required): Restructuring and insolvency—Finland—Q&A guide</p>
France	No	<p>Outside the scope of the EU Regulation on Insolvency, insolvency proceedings commenced in another country have limited effect in France, until they are officially recognised through an exequatur judgment and are made enforceable. Up until then, debtors can be the subject of enforcement measures or insolvency proceedings. Once the foreign insolvency proceedings are recognised in France, the foreign</p>		<p>GTDT. For further information, see guide available on Lexis®PSL (subscription required): Restructuring and insolvency—France—Q&A guide</p>

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		insolvency rules apply. The company's assets and business in France are handled in accordance with these rules.		
Germany	No	<p>Generally, German insolvency law allows for recognition of foreign insolvency proceedings and for co-operation between domestic and foreign courts and insolvency administrators. The concept of automatic recognition is similarly reflected in the Insolvency Act governing international insolvency law for non-EU members. According to section 343 of the German Insolvency Act, the opening of foreign insolvency proceedings shall be recognised. However, this shall not apply if the courts of the state of the opening of proceedings do not have jurisdiction in accordance with German law or where recognition leads to a result which is manifestly incompatible with the basic rights.</p> <p>German courts have co-operated with foreign courts in cases such as <i>PIN Group</i> where the German and Luxembourg courts</p>	<p>Possibly yes: Assuming the UK accedes to the Lugano Convention, the Part 26 Scheme and Part 26A Restructuring Plan will most likely be recognised in Germany thereunder. This is because the requirements under the Lugano Convention and those of Brussels Regulation are very similar.</p> <p>The Equitable Life decision should therefore be a strong indicator for recognition in Germany. Recognition could also probably be based on the Hague Convention on choice of court agreements if the exclusive jurisdiction clause extended to composition proceedings as well and was entered into at the relevant time (ie after the UK's accession to the Hague Convention on choice of law agreements becomes effective).</p> <p>Another separate route may also be available for the purposes of recogni-</p>	<p>GTDT. For further information, see guide available on Lexis®PSL (subscription required): Restructuring and insolvency—Germany—Q&A guide</p> <p>News Analysis: Roadmap to German recognition—the Part 26A Restructuring Plan may be more easily recognised than a scheme</p>

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		<p>were in close contact. In <i>BenQ</i>, the German and Dutch courts co-operated. There are no reported cases in which German insolvency courts have refused to co-operate with foreign courts. However, in a judgment dated 15/02/2012 (IV ZR 194/09) the German Federal Supreme Court refused to recognise an English scheme of arrangement between the UK-based insurance company Equitable Life Assurance Society (ELAS) and its creditors.</p>	<p>tion of a Part 26A Restructuring Plan based upon the provisions of the German Insolvency Code (InsO). Section 343 of the InsO facilitates recognition of insolvency proceedings based on the principle of universality and not the principle of reciprocity. If a German court were to classify the Part 26A Restructuring Plan as an insolvency proceeding as a matter of German law, then while recognition could neither be based on section 328 of the ZPO, the Lugano Convention, nor the Hague Convention, it may be able to rely upon section 343 of the InsO. Accordingly, German recognition of a Part 26A Restructuring Plan may be easier than for a Part 26 Scheme. Some may consider that this leads to the curious result of a 'simple' Part 26 Scheme being subject to more scrutiny in terms of recognition in Germany than a Part 26A Restructuring Plan.</p>	
Greece	Yes	Law No 3858/2010, which implemented most of the UN-		GTDT. For further information, see guide available on

Country	(i) Has the UN-CITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		CITRAL Model law, introduces the prospect of recognition of foreign insolvency proceedings as well as the co-operation among Greek courts, foreign courts and liquidators of different jurisdictions.		Lexis®PSL (subscription required): Restructuring and insolvency—Greece—Q&A guide
Hungary	No	Under Act XXVIII of 2017 on Private International Law, the recognition of judgments in insolvency proceedings is subject to reciprocity between Hungary and the state of the court that delivered the judgment.		GTDT. For further information, see guide available on Lexis®PSL (subscription required): Restructuring and insolvency—Hungary—Q&A guide
Ireland	No	EU Brussels I recast was implemented into Irish law by the European Union (Civil and commercial judgments) Regulations 2015 (SI 6/2015). Accordingly, Ireland automatically recognises EU judgements to which Brussels I recast applies without the need for an application before the Irish courts. Ireland is also a signatory the Lugano Convention, which provides similar mutual recognition of judgments. For countries outside of the EU and EFTA, common law recognition principles apply.		GTDT. For further information, see guide available on Lexis®PSL (subscription required): Restructuring and insolvency—Ireland—Q&A guide

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
Italy	No and No	<p>The existing provisions are limited. Specifically: (i) jurisdiction is dealt with under art. 9 and 161 of Italian insolvency law with regard to winding up (fallimento) and restructuring (concordato preventivo) proceedings. (ii) recognition and enforcement of third countries' foreign judgments is dealt with under the general conflict of law rules and, specifically, art. 64 and ff of Law 218/1995, on Italian private international law, to be applied taking into account the peculiarities of foreign insolvency proceedings.</p>	<p>Unclear: No specific convention exists between the UK and the Republic of Italy in matters regarding insolvency and restructuring. The UK and the Republic of Italy entered the Convention between the Mutual Recognition and Enforcement of Judgments in Civil and Commercial Matters, which was signed at Rome on 7 February 1964, with amending Protocol signed at Rome on 14 July 1970. Following withdrawal from the EU, the Convention could be applicable to recognition of judgments in bankruptcy proceedings (art. IV.3.c). Recognition and enforcement of court orders issued at the sanctioning hearing approving the plan or the scheme could be recognised in accordance to the Convention if qualified, under English law, as judgments issued in bankruptcy proceedings. Otherwise, recognition and enforcement could be sought under the existing rules on recognition and enforcement of third countries' foreign judgments (art. 64</p>	<p>INSOL Europe. For further information, see News Analysis: INSOL Europe/LexisPSL Joint Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Italy</p>

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
			and ff of Law 218/1995 on Italian private international law).	
Latvia	No	On the basis of international agreements on mutual legal assistance and/or national norms of private international law, as well as the norms of civil procedure governing the recognition and enforcement of foreign judgments in general. There are no norms of private international law or civil procedure governing the recognition of foreign insolvency proceedings in particular.	Unclear: Judgments made with respect to an English scheme or an English restructuring plan would need be recognised on the basis of norms of private international law, as well as the norms of civil procedure governing the recognition and enforcement of foreign judgments in general. Customary grounds for the refusal of recognition (eg lack of competence of the foreign court, which gave the ruling, to examine the dispute or conflict with the public policy (ordre public) in Latvia) would apply.	INSOL Europe. For further information, see News Analysis: INSOL Europe/LexisPSL Joint Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Latvia
Lithuania	No	The recognition of related court judgments follows the general exequatur recognition procedure established in Art 809 et seq of the Code of Civil Procedure (CPC). The relevant criteria are inter alia: the entry into force of the judgment in the country of origin, adherence to the obligation to duly inform all affected parties who were not	Unclear: It remains uncertain if English schemes or restructuring plans would be recognised in Lithuania. This uncertainty stems from (i) the lack of special provisions on the recognition of insolvency-related decisions taken in third-party states, (ii) the absence of a bilateral treaty between the UK and Lithuania that would cover the sub-	INSOL Europe. For further information, see News Analysis: INSOL Europe/LexisPSL Joint Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Lithuania

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		participating in the court proceedings, non-violation by the foreign judgment of the rules of public order (ordre public). The court has no power to analyse the application of law and facts of the judgment, for which recognition is sought.	ject-matter, (iii) the lack of relevant precedent case law, and (iv) the case-by-case nature of the exequatur procedure. Although the court should refuse recognition only in exceptional cases, the risk remains that recognition requests could be rejected.	
Luxembourg	No and No	Luxembourg applies the universality principle.	Yes: An English scheme of arrangement or an English restructuring plan should in principle be recognised post-Brexit, based on the Lugano convention.	INSOL Europe. For further information, see News Analysis: INSOL Europe/Lexis@PSL Joint Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Luxembourg
Malta	No	Foreign judgments can be recognised and enforced locally in accordance with general remedies available in the Maltese Code of Organisation and Civil procedure. Maltese courts would recognise a judgment unless any of the grounds for non-recognition enshrined in art 826 exist: —if the judgment sought to be enforced may be set aside on art 811		GTDT. For further information, see guide available on Lexis@PSL (subscription required): Restructuring and insolvency—Malta—Q&A guide

Country	(i) Has the UN-CITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		<p>grounds (eg fraud etc)</p> <p>—in the case of a judgment by default, if the parties were not wilfully disobedient according to foreign law, or</p> <p>—if the judgment is contrary to public policy or to the internal public law of Malta</p> <p>Additionally, for money judgments obtained in the UK and British dominions (defined as any territory which is under British protection or in respect of which a mandate is being exercised by the Government of any part of the British dominions), Malta's British Judgments (Reciprocal Enforcement) Act may assist; judgment creditors can apply within 12 months to have a money judgment registered in one of the superior courts of Malta and for its enforcement in Malta if just and convenient.</p> <p>Additionally, letters of request may be made under the Hague Convention as Malta is a signatory.</p>		
The Netherlands	No	The effects of the opening of insolvency proceedings	Schemes: probably yes: In the absence of case law on this	GTDT. For further information, see guide available on

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		<p>in other non-EU jurisdictions (including Denmark, which has opted out of the EU Regulation on Insolvency) are only to a certain limited extent recognised in the Netherlands. This recognition may be challenged if the principles of due process and fair trial have not been observed in the foreign procedure.</p> <p>In cases where there was an absence of a treaty and where the predecessor or the EU Regulation on Insolvency did not apply, the Dutch Supreme Court has consistently decided that the foreign insolvency proceedings only have a territorial effect, meaning that they do not affect the debtor's assets located in the Netherlands and the legal consequences attributed to the bankruptcy pursuant to the bankruptcy law of such foreign country cannot be invoked in the Netherlands to the extent that it would result in any unpaid creditors no longer being able to take recourse on the assets of the debtor located in the Netherlands (either</p>	<p>matter, no conclusive answers can be given. The prevailing opinion in the Netherlands is that a scheme of arrangement will be recognised and given effect in the Netherlands on the basis of either the Regulation (EU) 1215/2012 (Brussels I recast) or Dutch domestic private international law.</p> <p>Plans: Unclear—It is not at all certain whether the same is true for the new restructuring plan. While, in principle, a restructuring plan is likely to be recognised in the Netherlands under rules of domestic private international law, the effects of recognition will be limited if the restructuring plan is considered an insolvency proceeding for purposes of applying Dutch private international law.</p>	<p>Lexis®PSL (subscription required): Restructuring and insolvency—Netherlands—Q&A guide</p> <p>News Analysis: Recognition and enforcement of English schemes and plans in the Netherlands post IP completion day</p>

Country	(i) Has the UN-CITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		<p>during or after the relevant foreign insolvency proceedings).</p> <p>In Dutch case law it is determined that if a foreign insolvency office-holder is allowed to invoke their rights as available pursuant to the foreign domestic insolvency law, including over assets that are located in the Netherlands. The office-holder is also allowed to sell these assets and consider the proceeds part of the assets of the foreign bankruptcy estate. Notwithstanding that the foreign insolvency procedure's seizure is regarded as having only territorial effects of the foreign insolvency, the effects are de facto recognised in the Netherlands, because the foreign insolvency office-holder is able to exercise their power under the <i>lex concursus</i>.</p> <p>Note, however, that the effect of foreign insolvency proceedings (and any actions by a foreign insolvency office-holder related thereto) on assets located in the Netherlands can be set</p>		

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		aside by a Dutch court, if the court determines such proceedings to have been in violation of public policy.		
Poland	Yes	The UNCITRAL Model Law enacted by the Bankruptcy and Recovery Act of 9 April 2003.	Yes: Both an English scheme of arrangement and restructuring plan would be recognised on the basis of Part II of the Bankruptcy Law: 'Regulations dealing with international bankruptcy' if no exclusive jurisdiction of a Polish court applies and there is no breach of general principles of the legal order of Poland (similar to a public order exemption) (see art 392 of the Bankruptcy Law). In practice, it may well be that if one deals with an English scheme opened against a debtor who is not endangered by insolvency, then recognition may be denied. In such a case, the rules of the Private International Law which is based on the Rome I (and Rome II) convention would apply.	INSOL Europe. For further information, see News Analysis: INSOL Europe/Lexis@PSL Joint Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Poland
Portugal	No	(1) The recognition of insolvency proceedings commenced in third-party states is governed by the provisions of sections 288 et ss. of	Yes, in principle. It is important to highlight from the outset that Portuguese courts and Portuguese legal scholars have been entirely silent both before	INSOL Europe. For further information, see News Analysis: INSOL Europe/Lexis@PSL Joint Project on 'How EU Member States recognise insolvency'

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		<p>the Portuguese Insolvency and Corporate Recovery Code ('PICRC'). (2) The general rule laid down in the PICRC is that any judgement opening insolvency proceedings handed down by a court of a third-party state shall be recognised in Portugal if the debtor's COMI is situated outside the territory of all Member States of the European Union.</p> <p>However, there are two exceptions to this general rule. Recognition shall be refused in the event that:</p> <ul style="list-style-type: none"> • The jurisdiction of the court of the third-party state was not based on the same (or equivalent) criteria foreseen in the PICRC, i.e. the debtor's seat, domicile or COMI; or • The effects of 	<p>and after Brexit in relation to the grounds for recognition of an English schemes of arrangement or an English restructuring plan.</p> <p>The conservative approach would be to consider that the recognition of an English schemes of arrangement or the restructuring plan would be subject to the default provisions of the Portuguese Code of Civil Procedure on the recognition of foreign judgments (applicable to all civil and commercial matters). In the instant case, the foreign judgement would be the English court decision that sanctioned the English scheme of arrangement or the restructuring plan.</p>	<p>cy/restructuring proceedings commenced in third country states'—Portugal</p>

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		recognition would be manifestly contrary to the public policy of the Portuguese State.		
Romania	Yes	The provisions of Romania's private international law for the recognition of insolvency proceedings initiated in countries outside the EU Member States (ie third countries) are the provisions contained in the Insolvency Law No 85/2014 on cross-border insolvency.	Yes - Under certain conditions provided by the Civil Procedure Code (article 1096).	INSOL Europe. For further information, see News Analysis: INSOL Europe/Lexis@PSL Joint Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Romania
Slovakia	No and No	Act No 97/1963 on International Private and Procedural Law ('Private International Law Act') contains the following rules, which prevent recognition: —res judicata —exclusive jurisdiction of Slovak courts —the decision is not final or enforceable in the country of issuance —the decision is not on the merits —the defendant did not receive notice of the proceedings in sufficient time to enable him to de-	Possibly yes: If England accedes to the Lugano Convention and the court decision qualifies within the definition of Article 32, they may be recognisable. The Slovak courts might, however, reject recognition based on public policy grounds. As a last resort, general recognition rules under the Private International Law Act apply. However, the Slovak courts might reject recognition based on public policy	INSOL Europe. For further information, see News Analysis: INSOL Europe/Lexis@PSL Joint Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Slovakia

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		fend, and —order public If none of the rules above apply, the court may recognise the judgment.	grounds.	
Slovenia	Yes	<p>Foreign insolvency proceedings are generally recognised in Slovenia subject to conditions set out in the insolvency statute and the general conditions on the recognition of foreign court judgments, unless the EU Recast Regulation On Insolvency or an international treaty applies. Domestic courts may generally refuse to recognise foreign insolvency proceedings or a request by a foreign court if this could have a negative impact on Slovenia's sovereignty, security or public interest.</p> <p>According to Slovenian insolvency legislation, the courts must co-operate with foreign courts in managing cross-border insolvencies to the highest extent possible. No special form of co-operation is prescribed. Domestic courts are entitled to:</p> <p>—exchange information directly with a foreign court or</p>		GTDT. For further information, see guide available on Lexis®PSL (subscription required): Restructuring and insolvency—Slovenia—Q&A guide

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		<p>administrator</p> <p>—request information or legal assistance directly from a foreign court or administrator and</p> <p>—provide information or carry out acts of legal aid based on a direct request from a foreign court or administrator</p>		
Spain	No	<p>Non-EU insolvency proceedings are recognised in Spain through the exequatur proceedings contained in the Civil Procedure Act, provided that the following requirements set out in the Insolvency Act are met:</p> <p>—the foreign decision refers to collective proceedings grounded in the insolvency of a debtor by virtue of which all of its assets and activities are controlled or supervised by a tribunal or authority in relation to its liquidation or reorganisation</p> <p>—the foreign decision is final</p> <p>—the competence of the foreign court is based on the jurisdictional criteria found in the Insolvency Act (ie COMI or domicile) or there is a reasonable connection equivalent to the aforementioned</p>		<p>GTDT. For further information, see guide available on Lexis®PSL (subscription required): Restructuring and insolvency—Spain—Q&A guide</p>

Country	(i) Has the UNCITRAL Model law on Insolvency adopted? (ii) If not, is adoption being considered?(Q1)	Recognition of insolvency/restructuring proceedings commenced in a third country (Q2)	Would your country recognise (i) an English Scheme or (ii) English restructuring plan? (Q3)	Author accreditation and further information
		tioned criteria —the decision has not been rendered in the absence of the debtor or it has not been rendered after the summoning of the debtor in due form and with sufficient time for it to properly defend itself, and —the decision is not against public policy		
Sweden	No and No	Under the Nordic Multilateral Bankruptcy Convention of 7 September 1993 (concerning Denmark, Finland, Iceland, Norway and Sweden), there is automatic recognition. Non-statutory rules which apply to all other countries. Therefore, Sweden may recognise foreign insolvency proceedings but does not grant any rights to deal with assets located in Sweden.	If the scheme of arrangement or restructuring plan is considered a part of insolvency proceedings, there would be no automatic recognition. If the scheme of arrangement or restructuring plan is considered part of contract law, recognition could be possible if based on choice of English law (Regulation (EC) 593/2008 , Rome I), or if an exclusive jurisdiction clause in favour of the English courts applies (Hague).	INSOL Europe. For further information, see News Analysis: INSOL Europe/Lexis@PSL Joint Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states'—Sweden

The articles accredited to GTDT were reproduced with permission from Law Business Research Ltd. First published in Lexology Getting The Deal Through—Restructuring & Insolvency 2021, November 2020. For further information please contact: adam.sargent@lbresearch.com.

The articles accredited to INSOL Europe are reproduced with permission from INSOL Europe and are available from <https://www.insol-europe.org/technical-content/recognition-in-third-states>.

The list of the INSOL Europe country coordinators is available at: <https://www.insol-europe.org/country-coordinators>.