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



LexisPSL 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))(see News Analysis: [INSOL Europe/LexisÆPSL launch Joint Project on ‘How EU Member States recognise insolvency and restructuring proceedings of a third country’](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4070063&service=DOC-ID&origdpsi=0OM3)).

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 (see Practice Note: [When does UNCITRAL (implemented by the Cross-Border Insolvency Regulations) apply and what are the effects?](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0OM3&remotekey1=DOC-ID&remotekey2=0OM3_146894&service=DOC-ID&origdpsi=0OM3)).

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 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 (see [Schemes of arrangement—overview](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0OM2&remotekey1=DOC-ID&remotekey2=0OM2_188237&service=DOC-ID&origdpsi=0OM3)) or Part 26A restructuring plan (see Practice Note: [Corporate Insolvency and Governance Act 2020—restructuring plan provisions](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0OM3&remotekey1=DOC-ID&remotekey2=0OM3_3529543&service=DOC-ID&origdpsi=0OM3)).

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** |
| --- | --- | --- | --- | --- |
| **Austria** | No and No | Recognition of foreign (non-EU) insolvency proceedings is available pursuant to section 240 of the Insolvency Code. The effects of insolvency proceedings opened in another country and judgments rendered in such proceedings shall be recognised in Austria if:   1. the centre of main interests (COMI) of the debtor is in such other country, and 2. the insolvency proceedings are comparable in their main features to Austrian insolvency proceedings, in particular with Austrian creditors being treated like creditors from the country in which the proceedings were opened | Schemes: remains to be seen, but potential arguments include: -Rome I Regulation ([Regulation (EC) 593/2008)](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/citationlinkHandler.faces?bct=A&service=citation&risb=&UK_EULEG&$num!%2532008R0593_title%25); Rome I, pursuant to its Article 2, applies universally and Austrian courts (same as the courts of other EU Member States) would need to recognise an explicit choice of English law clause in any agreement. The downside is that this is a pathway only for liabilities governed by English law  - the Hague Convention could be a basis for recognition. Whether the Hague Convention applies in relation to English schemes of arrangement is not entirely free of doubt as “insolvency, composition and analogous matters” do not fall within its scope (expressly Art II (2) (e)); if the Hague Convention applied, it would still be required that all contracts to be included in the English scheme of arrangement contain an exclusive choice of UK courts  - the Austrian Enforcement Act (Exekutionsordnung) provides for rules that, if certain requirements are met, foreign judgments shall be recognised and enforced in Austria. One very relevant requirement is that Austrian judgments would be recognised and enforced in the UK as well (reciprocity) and that such reciprocity must be “guaranteed” (verb¸rgt) by treaties or other binding rules. At least from the Austrian side, there are no obvious rules guaranteeing such recognition. Also, legal writers point to the UK “Rule of Gibbs” as a potential barrier  Plans: remains to be seen: The recognition of the English restructuring plan depends on whether such plan qualifies as an insolvency proceeding or not. If it does not qualify as an insolvency proceeding, the same applies as in relation to the recognition of English schemes of arrangement  If it does qualify as insolvency proceedings, in principle recognition based on the rules of the Austrian Insolvency Code could be available. While UK courts appear to qualify the proceedings as insolvency proceedings, Austrian courts would not be bound to such qualification. The closer the plan is to the proceedings available in Austria (including the public proceedings under the new Restructuring Code) the higher the changes for recognition by Austrian courts are | 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’—Austria](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4208203&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **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 rescheduling) 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)  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. |  | GTDT. For further information, see guide available on LexisPSL (subscription required): [Restructuring and insolvency—Belgium—Q&A guide](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0OM3&remotekey1=DOC-ID&remotekey2=0OM3_217764&service=DOC-ID&origdpsi=0OM3) |
| **Bulgaria** | No and No | The main recognition rule related to international civil procedure law is Art. 117 from the Code on International Private Law: Decisions and acts by foreign courts and other foreign authorities are recognized and their execution is permitted when:  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 contradict Bulgarian public order. | Unclear: It is questionable whether Bulgaria would recognise an English scheme of arrangement 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.  Schemes: The chances for recognition and execution appear higher for a scheme of arrangement with no cram down in the case of a debtor formally registered in England. However, formal arguments and the mutuality requirement can prevent recognition here, too. | 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’—Bulgaria](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4067518&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **Croatia** | No and No | Under the Insolvency Act (National Gazette 71/15, 104/17) articles 400 – 427, the petition for recognition has to include: (i) the original decision and translation into Croatian, or a certified copy, (ii) a certificate of enforceability and (iii) a list of known assets of the debtor in the territory of the Republic of Croatia. The foreign decision will be recognised if: (i) the court that delivered the decision had international jurisdiction according to Croatian law, (ii) the decision is enforceable according to the law of the country of origin and (iii) if its recognition wouldn’t be contrary to public policy. | Yes — Article 427 of Insolvency Act provisions on the recognition of a foreign decision on the opening of insolvency proceedings shall apply to the recognition of a foreign decision approving a restructuring plan or scheme, as well as the recognition of a foreign decision made in another similar procedure. | 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’—Croatia](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4163782&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **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](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4071533&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **Czech Republic** | No and No | Recognition of foreign insolvency proceedings commenced in countries 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 | Scheme—Unclear: It is not clear what approach the Czech court would have to 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 *gategroup Guarantee Limited* (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)](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4060863&service=DOC-ID&origdpsi=0OM3)), 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. | 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’—Czech Republic](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4065483&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **Denmark** | No and No | According to the Danish Insolvency Act, the Minister of Justice may lay 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. | No: An†English scheme of arrangement or an English restructuring plan is not enforceable in Denmark, neither prior to Brexit nor 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’—Denmark](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4065456&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **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 recognition in the Republic of Estonia, unless:  —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 provisions of Estonian law regulating international jurisdiction | Yes and Yes | 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’—Estonia](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4061045&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **Finland** | No and No | 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.  There are very few cross-border insolvency cases in Finland and consequently there is no relevant court practice to draw procedural practices from. | No: there is no international treaty or convention providing for recognition of an English Scheme of Arrangement or Restructuring Plan. | INSOL Europe. For more information, see News Analysis: [INSOL Europe/LexisPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Finland](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4147446&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **France** | No | The only French law provisions in force for the recognition of foreign insolvency proceedings relate to the exequatur procedure.  The conditions for the recognition of foreign judgments are defined by case law:  —the foreign court must have jurisdiction: there must be a sufficient connection between the application and the court seized  —the procedure followed must comply with international public policy in terms of substance and procedure; with a flexible approach adopted by the case law, these conditions concern the means of defence open to the defendant and the fairness of the procedure; as regards substance, the case law considers that the stay of individual proceedings and the principle of an equal treatment of creditors are part of international public policy; the approach is more flexible as regards the actual content of the foreign law  —the foreign decision must not be obtained by fraud (abuse of legal rules or fraudulent forum shopping)  —finally, no insolvency proceedings must be opened in France against the same debtor (by reference to the classic condition of incompatibility with another decision) | Schemes: An agreement could be recognised, not by the exequatur procedure, but as a contract, according to the provisions of the Rome I Regulation.  Plans: probably yes; recognition could be granted as soon as an English court approves it: an analysis of the grounds (financial difficulties) and of the rules (an agreement similar to a scheme of arrangement with a judicial sanction) however could lead French courts to apply the same process as the one provided for insolvency proceedings. The procedure of exequatur therefore seems likely applicable.  The 2005 Hague Convention on Choice of Court Agreements could also be applied subject to the exclusions provided for in its Article 9, in particular the refusal of recognition or enforcement if the agreement was null and void under the law of the State of the chosen court, fraud, conflict with local public policy or inconsistency with an earlier judgment given in another State between the same parties on the same cause of action. | INSOL Europe. For more information, see News Analysis: [INSOL Europe/LexisPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—France](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4147373&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **Germany** | No and No (although arguably, the German insolvency regime already provides for everything the Model Law set out to achieve and, in parts, goes beyond the Model Law eg automatic recognition of foreign insolvency proceedings and the application of the *lex fori concursus*, i.e. the insolvency law of the country in which the proceedings were opened, is explicitly provided for) | Recognition of foreign (non-EU) insolvency proceedings is available pursuant to section 343(1) of the Insolvency Code. Recognition may be denied if (i) the German courts conclude that the foreign court did not have the (international) jurisdiction to make the order for the commencement of the (foreign) insolvency proceedings (ii) recognition would violate the German *ordre public*, ie lead to a result which is manifestly incompatible with fundamental principles of German law).  A court has jurisdiction to commence insolvency proceedings if the centre of the debtor's business activity is within the court’s district. It follows that foreign insolvency proceedings will not be recognised in Germany unless the debtor has its COMI in the foreign jurisdiction; a close connection does not suffice. | Possibly:Brussels I recast no longer applies, Lugano (the EU has now rejected the UK’s application) and Rome I application is doubtful.  For schemes, however, section 328 of the German Civil Procedure Rules (*Zivilprozessordnung*, “GCPR”) may assist cases which (i) do not violate public policy (ii) have finance documents containing a valid jurisdiction clause in favour of the English courts and (iii) satisfy the reciprocity test, meaning that the foreign court would recognise an equivalent judgment if it were handed down by a German court in similar circumstances.  For restructuring plans, there are two possible options for recognition in Germany: section 343 Insolvency Code or, alternatively, section 328 GCPR.  Zacaroli’s J legal analysis of the Recast Regulation on Insolvency 848/2015 in *gategroup Guarantee Ltd* and his reasoning as to what constitutes “insolvency proceedings” could lend weight to the suggestion that restructuring plans may be recognised in Germany pursuant to section 343 Insolvency Code. However, the term “insolvency proceedings” under German law is not necessarily identical with the term as construed under the Recast Regulation on Insolvency, which also includes pre-insolvency restructuring proceedings. Applying German domestic law only, and having regard to the case law that is available with respect to schemes of arrangement, the German courts may decide that the involvement of all of a debtor’s creditors is a distinguishing – and necessary - feature of “insolvency proceedings” and, therefore, may form a different view in their assessment of English restructuring plans. | INSOL Europe. For more information, see News Analysis: [INSOL Europe/LexisPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Germany](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4106787&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **Greece** | Yes | The recognition of international insolvency proceedings in Greece is determined by L 3858/2010. L 3858/2010 stipulates through articles 15 to 24 (Chapter C of the Law) the procedure for the recognition of international proceedings in third countries. | Greece would recognise an English Scheme of Arrangement or an English restructuring plan following the most recent available legal framework currently in force. Today this is the combined application of L 3858/2010 (based on the UNCITRAL model) and the new Greek bankruptcy code (L 4738/2020). | INSOL Europe. For more information, see News Analysis: [INSOL Europe/LexisPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Greece](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4141221&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **Hungary** | No | Under Section 109 of Private International Law Statute where:  a) jurisdiction of the foreign court is considered legitimate under this Act;  b) the judgment is construed as definitive by the law of the State in which it was adopted, or equivalent; and  c) neither of the grounds for denial apply.  Reciprocity is also required. | Schemes: rather questionable post Brexit.  Plans: similarly questionable post Brexit. | INSOL Europe. For more information, see News Analysis: [INSOL Europe/LexisPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Hungary](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4205533&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **Ireland** | No | Insolvency proceedings commenced outside of EU Member States can be recognised in Ireland under common law rules of recognition. This jurisdiction can be exercised where relief is sought for a legitimate purpose and not in the nature of enforcement and derives from the underlying principle of universality of insolvency proceedings. The High Court will also have regard to the equivalence between Irish insolvency law and the law of the country in which the foreign insolvency proceedings are taking place, to ensure recognition is not contrary to Irish law. | Schemes and Plans: probably recognised under common law. | 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’—Ireland](https://www.lexisnexis.co.uk/legal/restructuring-insolvency-law/international/cross-border-co-operation)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **Italy** | No and No | 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. | 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 for 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 and ff of Law 218/1995 on Italian private international law). | 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](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4069807&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **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](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4070103&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **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 participating in the court proceedings, non-violation by the foreign judgment of 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. | 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 subject-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. | INSOL Europe. For further information, see News Analysis: [INSOL Europe/LexisÆPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Lithuania](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4066502&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **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, but the UK’s application to accede has been rejected by the EU. | INSOL Europe. For further information, see News Analysis: [INSOL Europe/LexisÆPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Luxembourg](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4066420&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **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 grounds (eg fraud etc)  —in the case of a judgment by default, if the parties were not wilfully disobedient according to foreign law, or  —if the judgment is contrary to public policy or to the internal public law of Malta  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.  Additionally, letters of request may be made under the Hague Convention as Malta is a signatory. |  | GTDT. For further information, see guide available on LexisÆPSL (subscription required): [Restructuring and insolvency—Malta—Q&A guide](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0OM3&remotekey1=DOC-ID&remotekey2=0OM3_3589782&service=DOC-ID&origdpsi=0OM3) |
| **The Netherlands** | No | The effects of the opening of insolvency proceedings in other non-EU jurisdictions 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.  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 during or after the relevant foreign insolvency proceedings).  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.  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 aside by a Dutch court, if the court determines such proceedings to have been in violation of public policy. | Schemes: probably yes: In the absence of case law on this 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.  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. | 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’—The Netherlands](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4098591&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **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/LexisÆPSL Joint Project on 'How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Poland](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4066424&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **Portugal** | No | (1) The recognition of insolvency proceedings commenced in third-party states is governed by the provisions of sections 288 et ss. of 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.  However, there are two exceptions to this general rule. Recognition shall be refused in the event that:   1. 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 2. The effects of recognition would be manifestly contrary to the public policy of the Portuguese State. | Yes, in principle. It is important to highlight from the outset that Portuguese courts and Portuguese legal scholars have been entirely silent both before and after Brexit in relation to the grounds for recognition of an English schemes of arrangement or an English restructuring plan.  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. | 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’—Portugal](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4068498&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **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/LexisÆPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Romania](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4066452&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **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 defend, and  —order public  If none of the rules above apply, the court may recognise the judgment. | Possibly yes: 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 grounds. | INSOL Europe. For further information, see News Analysis: [INSOL Europe/LexisÆPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Slovakia](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4066451&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **Slovenia** | Yes | 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 Solvenia’s sovereignty, security or public interest.  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:  —exchange information directly with a foreign court or administrator  —request information or legal assistance directly from a foreign court or administrator and  —provide information or carry out acts of legal aid based on a direct request from a foreign court or administrator |  | GTDT. For further information, see guide available on LexisÆPSL (subscription required): [Restructuring and insolvency—Slovenia—Q&A guide](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0OM3&remotekey1=DOC-ID&remotekey2=0OM3_3589784&service=DOC-ID&origdpsi=0OM3) |
| **Spain** | No, but the Recast Insolvency Act (RIA) contains a number of rules inspired by the Model Law itself. | The recognition of insolvency proceedings commenced in countries outside of the EU Member States is regulated in Spain in Title III of Book Three of the RIA (Articles 742 to 748 of the RIA). There is no recognition of insolvency or pre-insolvency proceedings as such, but of the judgments that approve their commencement (Article 742 of the RIA) as well as those issued in the framework of those proceedings, as long as they are founded in the insolvency regulation (Article 744 of the RIA).  Judgments that approve the commencement of Non-EU insolvency proceedings are recognised in Spain through the exequator proceedings, provided that the following requirements set out in the Insolvency Act are met:  —the judgment refers to a collective proceeding in which all or a significant part of the creditors of the debtor participate and which is founded on the insolvency of the debtor or on the aim to avoid it. The assets and activities of the debtor must be subject to the control or supervision of a court or of a foreign public authority for the purposes of their reorganisation or liquidation, which would include, in principle, those debtor in possession proceedings  —it is a definitive judgment  —the jurisdiction of the court or the authority that has opened the proceeding is based on any of the criteria contemplated in the RIA, for instance, that the centre of main interests (COMI) or an establishment of the debtor is located in the state of commencement, or in any other reasonable connection of similar nature.  —the judgment has not been rendered in default of the debtor or, otherwise, that it has been preceded by delivery or service of a writ of summons or equivalent document, in due time and form for opposition  —the decision is not against public policy | Uncertain for both as under the RIA (i) they are based on corporate law ([CA 2006](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/citationlinkHandler.faces?bct=A&service=citation&risb=&UK_LEG&$num!%252006_46a_Title%25)) and in the case of the scheme of arrangement it is not designed exclusively for insolvency situations (ii) they are procedures that may not be collective since they only affect the relevant assets and liabilities that the debtor decides to submit to the scheme of arrangement or to the restructuring plan (iii) they have judicial monitoring limited to the necessary process to achieve the scheme of arrangement or the restructuring plan and (iv) territorial jurisdiction of English courts may be based on insufficient criteria, as the fact that the relevant debt to be restructured in the scheme of arrangement or the restructuring plan being subject to English Law is not an equivalent connection to the centre of main interests of the debtor.Uncertain under the Rome I Regulation given the cram-down mechanism inherent to schemes of arrangement and the cross-class cram-down of restructuring plans, which do not easily fit in with their alleged contractual nature.  Uncertain under the Lugano (the EU has now refused the UK’s application to accede)) and Hague Conventions as following *gateGroup Guarantee Limited*, restructuring plans are excluded. | 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’—Spain](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4099166&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |
| **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](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/citationlinkHandler.faces?bct=A&service=citation&risb=&UK_EULEG&$num!%2532008R0593_title%25), 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/LexisÆPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Sweden](https://www.lexisnexis.com/uk/lexispsl/restructuringandinsolvency/linkHandler.faces?ps=SEARCH,PRACTICALGUIDANCE&bct=A&homeCsi=393783&A=0.7241332098658424&urlEnc=ISO-8859-1&&dpsi=0S4D&remotekey1=DOC-ID&remotekey2=0S4D_4065433&service=DOC-ID&origdpsi=0OM3)  Or [INSOL Europe website](https://www.insol-europe.org/technical-content/recognition-in-third-states) |

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