

INSOL Europe/LexisPSL Joint Project on ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’—Slovenia

22/09/2021

Restructuring & Insolvency analysis: This article looks at how Slovenia would recognise insolvency or restructuring proceedings commenced in a third country state. In particular, it considers whether the English Part 26 scheme or Part 26A restructuring plan would be recognised in Slovenia. Written by Mag. Blaž Možina, head of office, Analysis and Research Office, Supreme Court of the Republic of Slovenia.

Q1. Has your country adopted the UNCITRAL Model law on Insolvency? If not, does it intend to do so in the near future?

Yes, the UNCITRAL Model Law on Insolvency was adopted in 2007.

Q2. What are your country’s private international law provisions for the recognition of insolvency proceedings commenced in countries outside of the EU Member States (ie Third Party States)?

These provisions are contained in the Financial Operations, Insolvency Proceedings, and Compulsory Dissolution Act (Official Gazette of the Republic of Slovenia, No 126/2007 and subsequent), Chapter VIII.

Q3. Would your country recognise an English scheme of arrangement (under Part 26 Companies Act 2006 (CA 2006)) or an English restructuring plan (under CA 2006, Pt 26A) now post-Brexit and on what basis (eg Hague Convention, Rome I or other private international law rules)?

The general rules on the recognition and enforcement of foreign judgments, as provided for in the Private International Law and Procedure Act apply to the recognition of foreign insolvency proceedings. If certain requirements (Chapter 4), such as reciprocity, compliance with public order etc. are met, foreign judgments shall be recognised and enforced in Slovenia.

Furthermore, the Financial Operations, Insolvency Proceedings, and Compulsory Dissolution Act contains certain special provisions in this regard (Ch 8, Section 8.3). A domestic court may refuse to recognise a foreign insolvency proceeding or a request from a foreign court or administrator for assistance or cooperation if this could adversely affect the sovereignty, security or public interest in the Republic of Slovenia.

If the above-mentioned conditions are met, English schemes or restructuring plans would then be recognised in Slovenia.

INSOL Europe/LexisNexis table of ‘How EU Member States recognise insolvency/restructuring proceedings commenced in third country states’?

A table produced by INSOL Europe in partnership with Lexis Nexis (also incorporating information from Lexology Getting The Deal Through) is available here: [INSOL Europe/LexisPSL Joint Project on ‘How EU Member States recognise insolvency and restructuring proceedings of a third country’: consolidated table.](#)

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. As always, you should contact local lawyers in the relevant jurisdiction to check the current measures in force.

