

Poland

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Q1. Has your country adopted the United Nations Commission on International Trade Law (UNCITRAL) Model law on Insolvency? If not, does it intend to do so in the near future?

Yes Poland has adopted the UNICITRAL Model law on Insolvency.

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 like the UK)?

The UNCITRAL Model Law was enacted by the Bankruptcy and Recovery Act of 9 April 2003, introduced as it Part II of the act which deals with international bankruptcy proceedings. This was the source of “insolvency” law until a major reform of insolvency law which came into force in 2016 where the Bankruptcy and Recovery Act (law) became the Bankruptcy Law and a new Restructuring Law started to regulate proceedings aimed at the avoidance of bankruptcy proceedings by way of restructuring of a business where the major element of such proceedings is reaching of an arrangement with creditors.

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

Both an English scheme of arrangement and restructuring plan would most likely 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 Polish legal order (similar to a public order exemption) (see Article 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 a risk of insolvency, then recognition may be denied. In such a case, the rules of Polish Private International Law, which is based on the Rome I (and Rome II) convention, would apply.