

# **SIMPLIFIED RESTRUCTURING PROCEEDINGS**

REPORT ON THE FIRST YEAR OF FUNCTIONING  
OF SIMPLIFIED RESTRUCTURING PROCEEDINGS  
IN POLAND

PREPARED, IN FEBRUARY 2022, BY

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Simplified restructuring proceedings have been introduced to the Polish legal order by the Act of 19 June 2020 on interest rate subsidies for bank loans granted to entrepreneurs affected by the effects of COVID-19 and on simplified proceedings for approval of an arrangement in connection with the occurrence of COVID-19 (hereinafter: the UPR Act) – the so-called Anticrisis Shield 4.0. The first announcement on opening simplified restructuring proceedings was made in the Court and Commercial Gazette (MSiG) in July 2020.

The UPR Act provided for a temporary possibility to initiate and benefit from the simplified proceedings. According to Article 15(2) of the UPR Act, an entrepreneur could announce and open the proceedings only once. After one amendment in this regard, the final date for making an announcement was 30 November 2021.

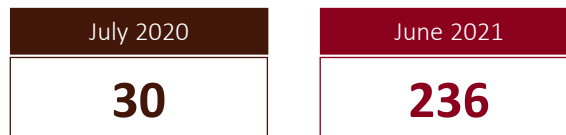
This report covers the data gathered during the first year of the functioning of simplified restructuring proceedings – that is, proceedings opened by 30 June 2021, which was to be the first deadline for initiating the proceedings, later extended until 30 November 2021.

During the first year, entrepreneurs opened 1,251 simplified restructuring proceedings, which stands for 84% of all restructurings in Poland within the analyzed period.

In July 2020, 30 simplified restructurings were opened, while in June 2021 respectively 236 proceedings were opened, which translates into a 687% increase year-to-year.

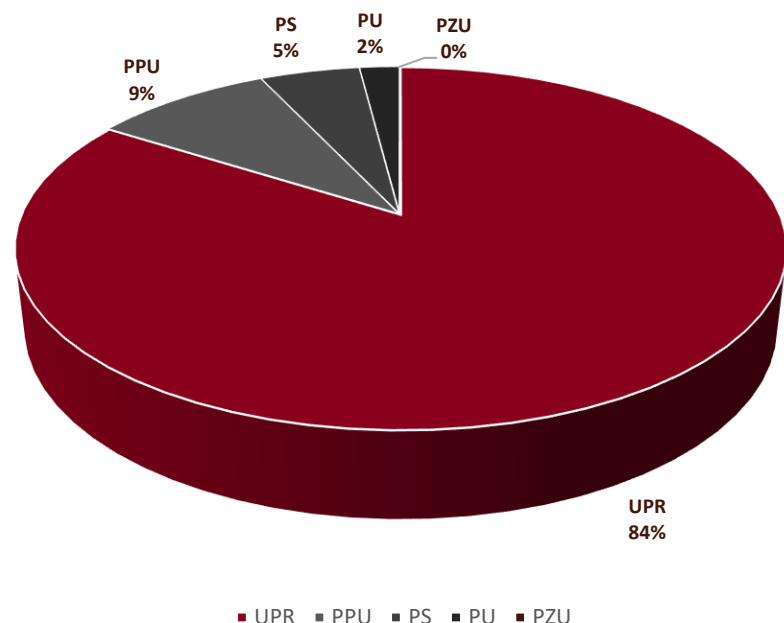
This new restructuring tool was widely used all around Poland and most significantly in Warszawa, Poznań, Białystok and Lublin.

#### RESTRUCTURING PROCEEDINGS IN POLAND



◀ **687% increase** ▶

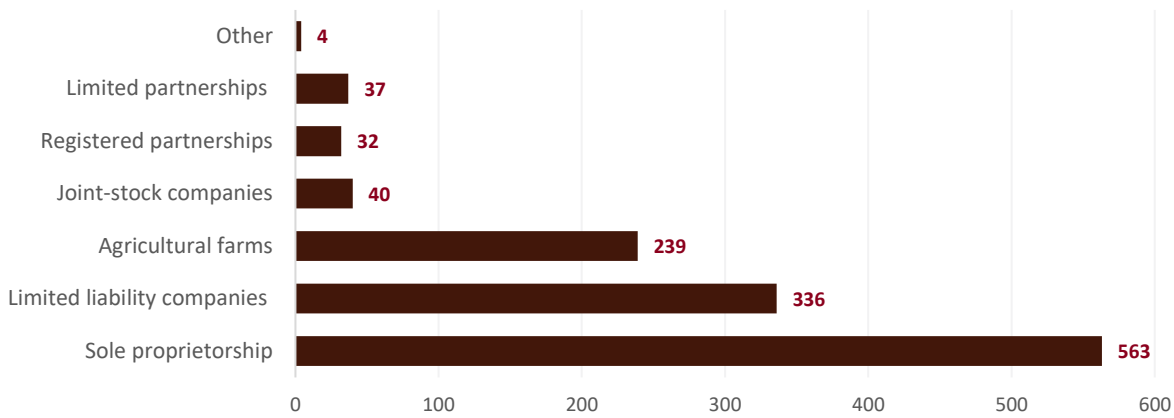
#### SIMPLIFIED RESTRUCTURING PROCEEDINGS COMPARED TO OTHER RESTRUCTURING PROCEEDINGS



#### Legend:

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

**SIMPLIFIED RESTRUCTURING – LEGAL FORMS OF BUSINESS ACTIVITY**

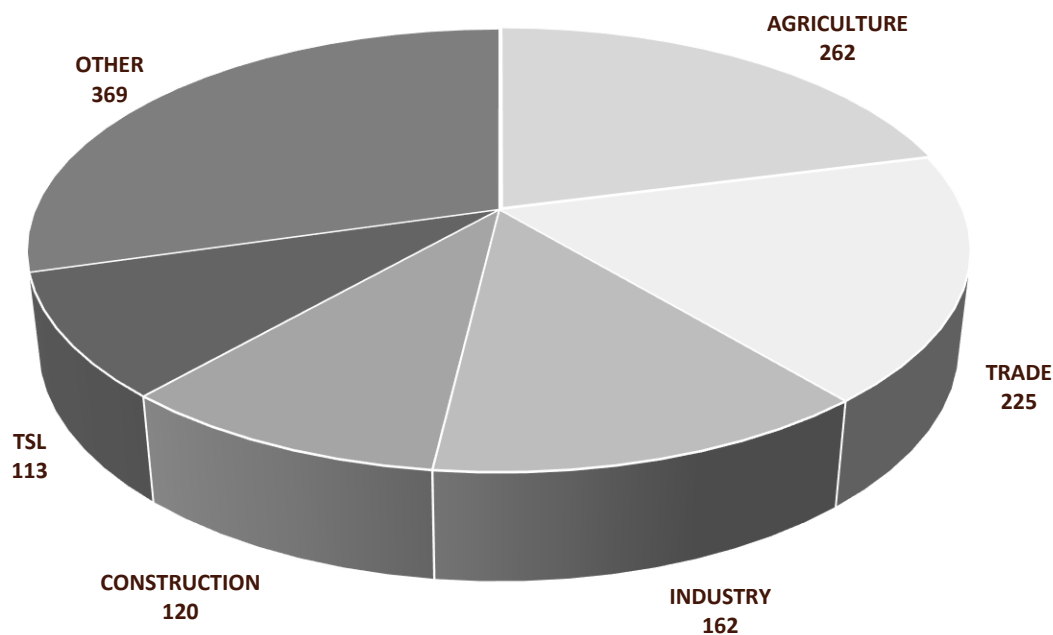


Interestingly enough, almost half of all the proceedings were used by individual entrepreneurs – sole traders. Farmers (almost 1/5) constituted nearly one-fifth of the petitioners and limited liability companies constituted more than one quarter of them.

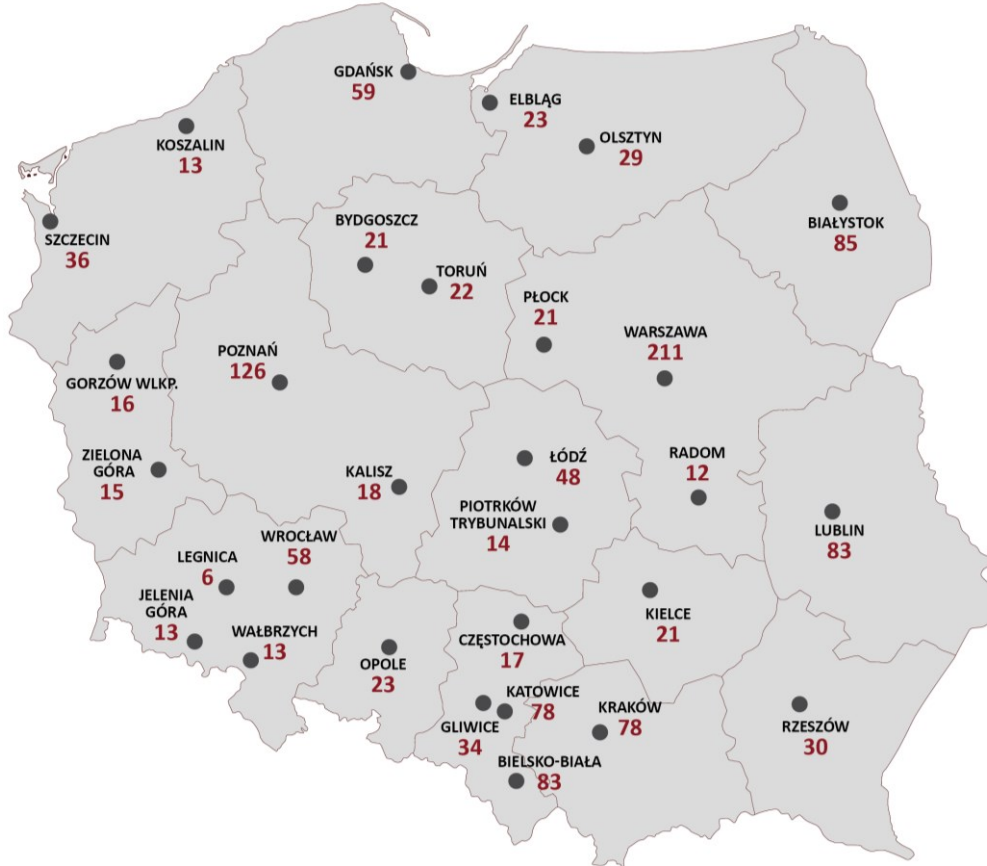
This can be easily explained by the relatively low costs of bringing the proceedings, which expanded the availability and accessibility of this restructuring tool.

Simplified restructuring proceedings were used by entrepreneurs from different branches of Polish economy, but the most interesting case is agriculture – accounting for up to 21% of the debtors, while this branch constitutes only 2% of the economy. An important branch is also trade (18%) and industry (13%) as well as construction (10%) and TSL (9%).

**SIMPLIFIED RESTRUCTURING BY BRANCHES**

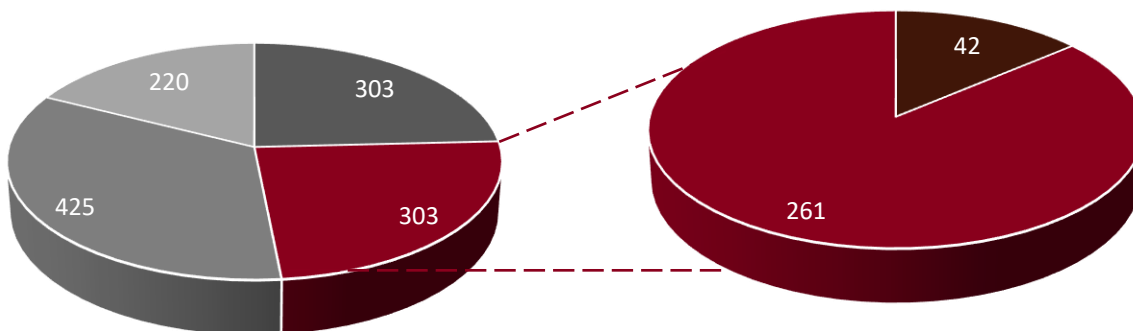


SIMPLIFIED RESTRUCTURING PROCEEDINGS ACROSS CITIES IN POLAND



THE RESULTS OF SIMPLIFIED RESTRUCTURING PROCEEDINGS

- submitted application, case is pending
- submitted application, approved arrangements
- no application submitted, case discontinued
- lack of data
- submitted application, refusal to approve the arrangement
- submitted application, approved arrangements



In 48% of the opened proceedings, the arrangement was concluded. We infer this fact from the number of petitions to approve the arrangement filed with the courts. However, not in all cases was the announcement on conclusion of the arrangement made. As of December 2021, half of concluded arrangements have been examined and revised by the courts, from which 86% were approved and 14% were dismissed.

Please note that 34% of the proceedings were discontinued due to not filing the application to approve the arrangement within 4 months from the opening of the proceedings (which was a mandatory requirement pursuant to Article 20(1) of the UPR Act. Said article provided for discontinuation of proceedings by virtue of law upon failure to file the application to approve the arrangement.

In 18% of cases, we could not see the outcome because of the lack of data, but most probably these cases were discontinued, because we were able to confirm neither the announcement on conclusion of the arrangement, nor the examination of the application to approve the arrangement.

In 11% of cases a partial arrangement was introduced, although information thereon was mentioned only in 1/5 of the announcements.

An average duration of the proceedings amounts to 174 days – which is almost 6 months. In the longest case, the arrangement was approved after 428 days.



## Comment by Karol Tatara

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

As the data show, simplified restructuring proceedings were a big success in the Polish restructuring landscape and allowed many entrepreneurs to avoid and prevent declaring bankruptcy. In most cases the creditors decided to trust their debtors, as most proceedings concluded with arrangements, and the majority of these arrangements were later on approved by the courts.

Simplified restructuring proceedings can be a matrix for implementing into Polish law the so-called Second Chance Directive, but some aspects can still be improved and made easier to introduce. Creditors' rights should be protected and balanced, mainly because creditors are most important in this jigsaw puzzle, since they decide whether to conclude an arrangement or not.

## SIMPLIFIED RESTRUCTURING PROCEEDINGS

# Authors

**Tatara & Partners Restructuring & Insolvency Law Firm** (Polish: Tatara i Wspólnicy sp.k.) is one of the leading law firms in Poland in restructuring and insolvency law. The Law Firm serves all stakeholders of the restructuring and insolvency proceedings, including debtors seeking to open restructuring proceedings or declare insolvency, creditors, trustees, court supervisors and investors interested in distressed assets.

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

- Tatara & Partners Restructuring & Insolvency Law Firm as well as Karol Tatara individually are regularly listed among leading lawyers and law firms:
- The Law Firm is ranked as one of the top recommended law firms in Rzeczpospolita's Ranking and Karol Tatara as a leading lawyer from 2015;
- Karol Tatara has been mentioned in international Who's Who Legal 2019 and 2020 rankings within Restructuring & Insolvency;
- The Law Firm was acknowledged for its engagement in the legislative anti-pandemic activity. The organizers of the Ranking acknowledged Karol Tatara and his team for creating and evaluating the so called 'Covid Shields' with regard to business law. Karol Tatara took part in restructuring and Insolvency law related issues, including Simplified Restructuring Proceedings.
- Karol Tatara received Band 4 individual recommendation in international Ranking Chambers Europe Restructuring / Insolvency Poland 2020 and 2021.

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

**Alerion sp. z o.o.** is a restructuring company. It is a limited liability company which is entitled to act as a trustee, court supervisor or administrator in restructuring proceedings or bankruptcy proceedings.

In particular, the company performs the function of an arrangement supervisor in simplified restructuring proceedings. It also provides restructuring advisory services. Its management board comprises Karol Tatara, Maciej Knopek and Anna Czarnota.

More info: [www.alerion.pl](http://www.alerion.pl)

## SIMPLIFIED RESTRUCTURING PROCEEDINGS

# Methodology

The report is based on an analysis of the announcements concerning the opening of restructuring proceedings, which have been published in the Court and Commercial Gazette (Monitor Sądowy i Gospodarczy) in the period between July 2020 and the end of June 2021. Although simplified restructuring proceedings were only available from June 24, 2020, the first announcements about the opening of the proceedings appeared in the Court and Commercial Gazette on July 1, 2020. Additionally, the authors contacted the courts to determine whether applications for approval of the concluded arrangements were received in the proceedings opened in the analyzed period. The data on insolvency and bankruptcy cases come from the Court and Commercial Gazette.

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

This report also uses data gathered by the Court Watch Poland Foundation, drafted and published in December 2021.





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