



**INSOL
EUROPE**

Insolvency Law in Times of Crisis

ACADEMIC CONFERENCE • DUBROVNIK • 5-6 OCTOBER 2022



‘Just ban all insolvencies’

On limiting access to insolvency proceedings in crisis

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Remember March 2020?



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- Extraordinary circumstances
- Considered temporary
- Extreme ‘rescue culture’:
 - Preserving economic structure, just put everything on hold
 - Moral considerations of rescue
 - Dwindling valuations deter liquidation
 - Limited court capacity



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Yet...

- Insolvency redistributes assets towards best performance
- Throwing good money after bad money
- Hindering creditors rights

In nations with a balance sheet insolvency test

- Dwindling asset valuations...
- ... combined with mandatory petitions for insolvency proceedings
- force companies into insolvency
- Dwindling asset valuations do not necessarily represent health of the company
- Requires quick legislative action
- Such action happened repeatedly in Germany: 2008/09, 2013, 2016, 2020

In nations with a cash flow insolvency test

- Dwindling asset valuations do not cause insolvency, but still adversely impact proceeds of liquidation
- Covid impacts on cash flow specific per sector
- Amending insolvency criteria for delay in state aid

Varying measures

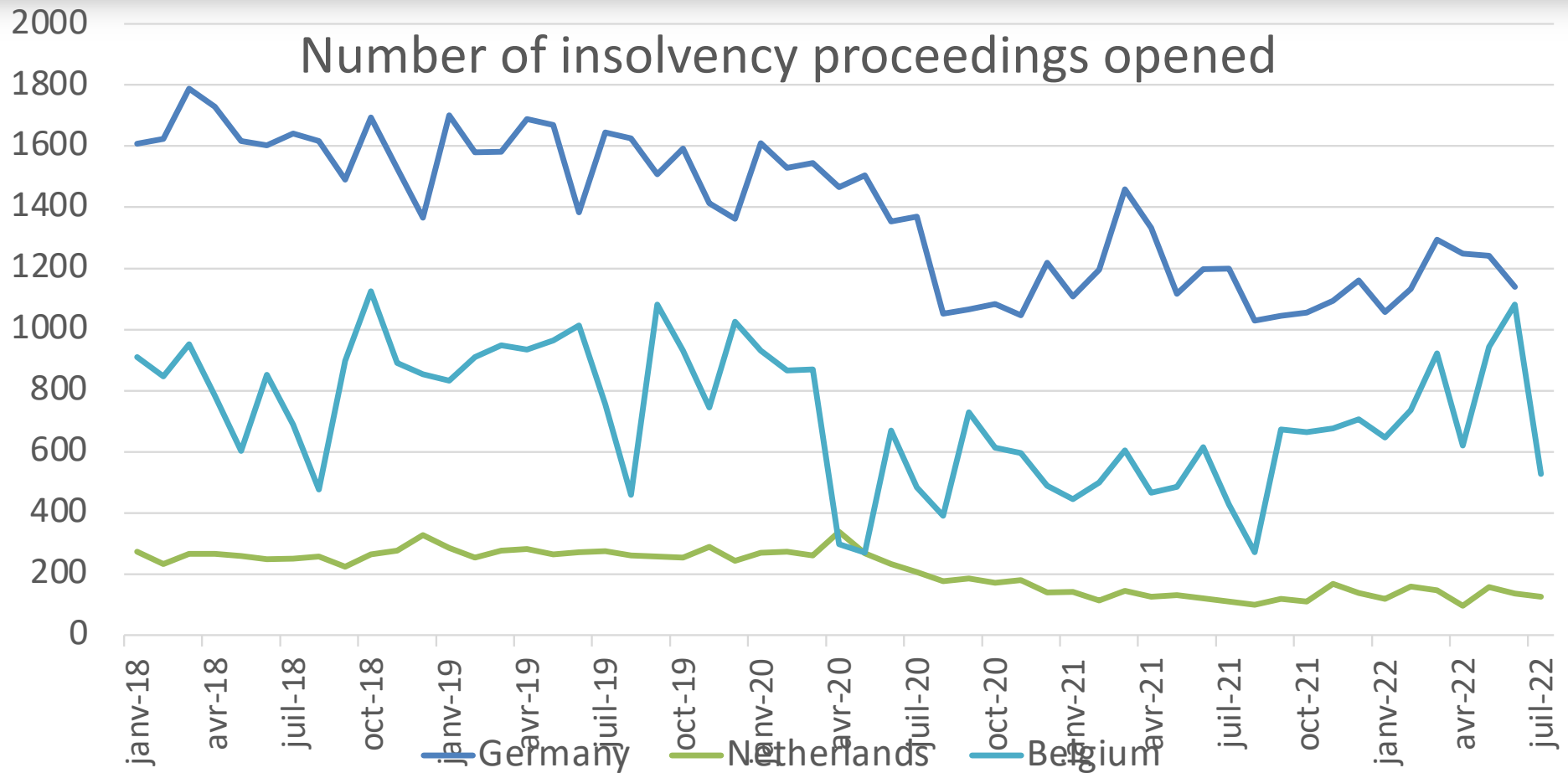
- Curbing creditors access to courts
 - Limits in Germany, Italy, Spain, Czech Republic, Greece, Austria, France, Belgium
 - No limits in Denmark, UK, Poland, Portugal, Switzerland, Luxemburg
 - Voluntary petitions for insolvency still allowed
- Increased judicial scrutiny
 - The Netherlands & Belgium
- Suspending mandatory petitioning for insolvency, loosening directors liabilities
 - E.g. Germany, France, Belgium, Czech Republic, Spain, Poland, Portugal, Austria
- Private and public financial support of ailing companies



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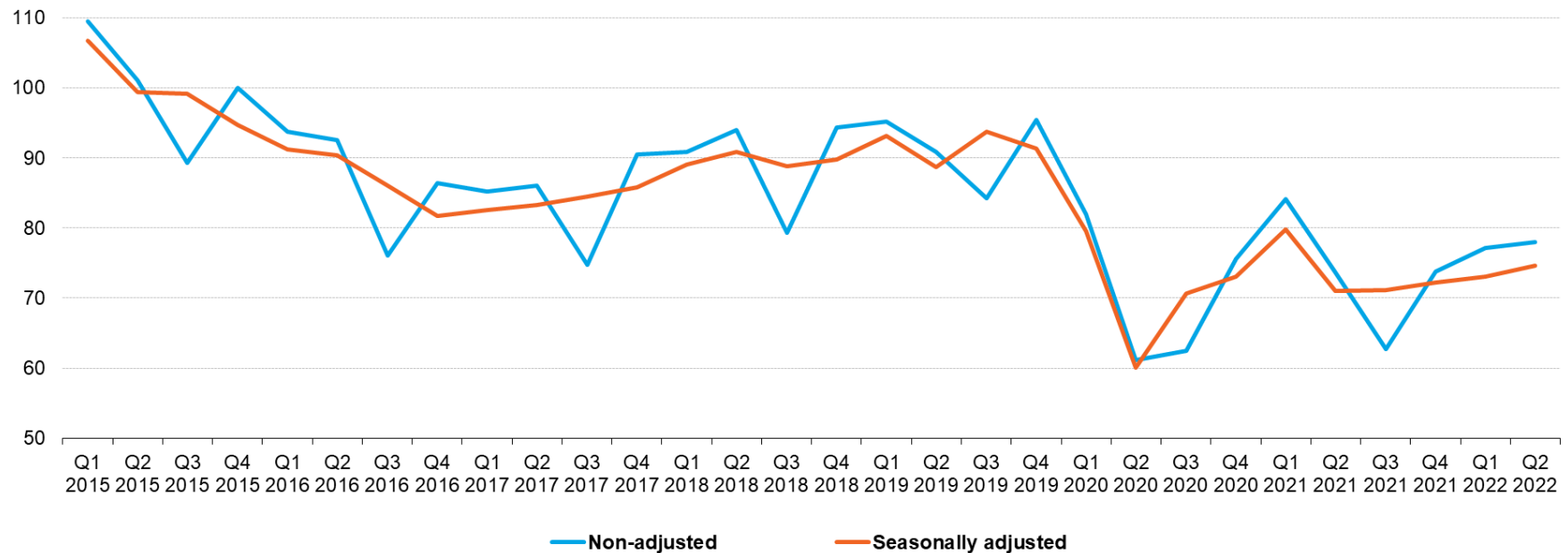
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EU (available countries), declarations of bankruptcies, Q1 2015 to Q2 2022
(2015=100)



Source: Eurostat (sts_rb_q)

Looking back

- Labour shortage
- Did we do too much?
- Interplay between local law, government support and insolvency tests
- Remaining debts may still prove to be 'long Covid'