

New Preventive and Restructuring Schemes adopted in EU Member States

Myriam Maily writes about significant progress on the implementation of the EU Preventive Restructuring Directive during the Summer period and in particular through two on-going projects, namely the INSOL Europe tracker and the INSOL Europe/LexisPSL Research on implementation of the EU Directive 2019/1023



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Significant progress on the status of implementation of the Directive on Restructuring and Insolvency in all EU Member States

By mid-August 2022, 18 EU Member States have notified the European Commission of their compliance with the Directive on Restructuring and Insolvency, namely Greece, Austria, France, Germany, Portugal, Croatia, Lithuania, Slovakia, Estonia, Romania, Denmark, Italy, Slovenia, Finland, Sweden, Hungary, Ireland and lastly, Spain.

A few EU Member States will implement the EU Directive in their national laws only after the summer break including Poland, Latvia, Malta, Luxembourg, Bulgaria, Belgium, Czech Republic, Cyprus and the Netherlands, mainly due to the delay of the national legislative processes. The final implementation of the EU Directive by all EU Member States is thus not expected before early 2023.

The progress of the implementation of the EU Directive in EU Member States is still available on the INSOL Europe website at: www.insol-europe.org/tracker-eu-directive-on-restructuring-and-insolvency

When the time comes, relevant information in relation to the EU transposition and conformity checks (for more details, please see the INSOL Europe August 2022 Newsletter) will be published here as well.



Significant progress in new INSOL Europe/LexisPSL joint research on implementation of EU Directive 2019/1023

As a reminder, this research looks at how the EU Member States as well as the UK (before Brexit) have implemented Directive (EU) 2019/1023 as part of the Joint Project between INSOL Europe and LexisPSL to track implementation.

At time of writing, answers from the following 19 EU Member States are available: Austria, Croatia, Cyprus (on the Draft Bill), Czech Republic (on the Draft Bill), Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Lithuania, Portugal, Romania, Slovakia, Slovenia (on the draft Bill), The

Netherlands (on the Draft Bill) and the UK.

Consequently, the consolidated table is not yet complete and will be updated with more EU Member States, as more articles are received in forthcoming weeks. Individual articles as well as the consolidated table are available at: www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023

We are grateful to the following contributors for their precious cooperation: Gottfried Gassner and Johannes Varga (AT), Jelenko Lehki (HR), Andri Antoniou (CY), Ernst Giese, Kateřina Nováková and Ondřej Rathouský (CZ), Michala Roepstorff (DK), Signe Viimsalu (ES), Jan Lilius, Mikko Tavast and Olli Mäkelä (FI), Jean-Luc Vallens



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Special thanks go also to the members of the INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU Member States which have made it available for INSOL Europe members: Kathy Stones, Neeta Chenani and Matt Van Bueren (Lexis PSL Restructuring and Insolvency, UK), Chris Loughton (Mercer & Hole, UK), Alice van der Schee (Van Benthem & Keulen B.V., NL), Adrian Thery (Garrigues, ES) and Dr. Myriam Mailly (INSOL Europe, UK).

National insolvency statistics

Quarterly insolvency statistics have been published for France (Q2 2022) as well as for England & Wales and Northern Ireland & Scotland (Q2 2022).

If we have a closer look to these insolvency statistics **country per country or those published quarterly by Eurostat** (last on 17 August 2022), one can see that the latest available figures for the beginning of the year show a **return to reality** on the insolvency scene.

Indeed, the upward trend has clearly accelerated and now approaching the levels seen in the pre-Covid-19 crisis period (2019).

The increase in the number of insolvency proceedings is expecting to continue in the following months to reflect the consequences of the withdrawal of most measures taken by national public authorities to support their own businesses during the Covid-19 crisis.

Though a number of companies may benefit from the new preventive and restructuring schemes now adopted in a majority of EU Member States, it is worth mentioning that companies failing to meet the test of viability (the requirement test as provided for by the EU Preventive Restructuring Directive) are or will be simply excluded from those varying restructuring tools put in place by the European Member States.

Consequently, this will lead companies that are not long-term viable to see their restructuring proceedings converted into liquidations or to have to apply for compulsory proceedings leading in most cases, if not all, to liquidations: 'a return to reality'.

To note, EU and National Insolvency Statistics are available from the dedicated technical section of our website at: www.insol-europe.org/technical-content/national-insolvency-statistics ■

For updates on new technical content recently published on the INSOL Europe website, visit: www.insol-europe.org/technical-content/introduction or contact Myriam Mailly by email: technical@insol-europe.org

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