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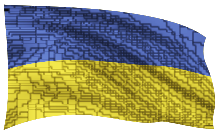
Ukraine to Implement Preventive Debt Restructuring Law in 2025



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On 1 January 2025, Law No. 3985-IX will come into force in Ukraine, introducing a 'preventive restructuring' mechanism. Through this law, Ukraine will harmonise its legislation with EU law, providing economically active enterprises facing financial difficulties access to effective preventive restructuring frameworks that will allow them to continue operating.

On 19 September 2024, Ukraine's Verkhovna Rada adopted Law No. 3985-IX, pursuant to a Memorandum of Understanding between Ukraine as Borrower and the EU as Lender. Based on the terms of the Memorandum, Ukraine was to improve its bankruptcy legislation in accordance with the principles of EU Directive on Restructuring and Insolvency, which deals with preventive restructuring frameworks, the discharge of debt, and disqualifications, as well as measures to make restructuring, insolvency, and debt discharge procedures more efficient.

In accordance with the new law, a preventive restructuring procedure has been introduced consisting of a series of organizational, economic, managerial, investment, technical, financial, economic and legal measures aimed at preventing or averting the insolvency of the debtor. In addition to any changes in the debtor's assets and liabilities, the preventive restructuring plan may also include any necessary operational changes or combinations of these elements.

With the new law, a whole new set of provisions for regulating preventive restructuring have been incorporated into the Code of Ukraine on Bankruptcy Procedures:

- Preventive restructuring may be initiated by a debtor – a legal entity or an individual entrepreneur.
- The direct decision to initiate the preventive restructuring procedure shall be made by the supreme management body, the owner of the property (the body authorised to manage the property).
- The preventive restructuring plan shall be approved by the court after negotiations with the involved creditors to agree on the plan and preventive restructuring measures.

The provisions of the new law define the cases in which an Insolvency Receiver must participate in the preventive restructuring procedure as a 'Preventive Restructuring Administrator'. There will be several responsibilities of the Insolvency Receiver, including providing recommendations regarding preventing insolvency, developing a plan for preventing insolvency, facilitating negotiations between creditors and debtors as well as overseeing and controlling the debtor's business activities.

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