

Further progress in restructuring and insolvency areas at EU level

Myriam Maily writes about the latest information made available to the INSOL Europe members on the INSOL Europe website



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The EU Directive on Restructuring and Insolvency (2019/1023)

Tracker on the EU Restructuring and Insolvency Directive

The latest article will be published to focus on legislative amendments to be introduced in Poland which is the latest country to consider implementing the EU Directive on Restructuring and Insolvency and whose progress is still available thanks to our dedicated tracker (last update May 2025) at: <https://www.insol-europe.org/tracker-eu-directive-on-restructuring-and-insolvency>

An English translation of the latest government bill as at 14 May 2025 has been made available at: <https://www.insol-europe.org/technical-content/updated-insolvency-laws-poland>. The text refers to the draft new legislation implementing the Second Chance Directive (Restructuring Directive) into the Polish legal landscape. With particular focus on the satisfaction test, stay of enforcement rules and cross-class cram-down, the Act is currently before the *Sejm* (lower chamber of the Polish Parliament) and is subject to further actions.

Additional information on the changes expected from the implementation process remains available also at: <https://www.insol-europe.org/technical-content/state-reports-poland>

I am grateful to Paweł Kuglarz and Mateusz Kaliński from Tatara & Partners Restructuring & Insolvency Law Firm for keeping INSOL Europe

members up-to-date on the latest stage of the implementation of the Directive.

Regulation (EU) 2015/848 on insolvency proceedings – Amendments of Annex A and B (COM(2025) 40 final)

In my previous column, INSOL Europe members were informed that the European Commission published on 12 February 2025 a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2015/848 on insolvency proceedings to replace its Annexes A and B (COM(2025) 40 final).

As a reminder, in July 2022, **Slovakia** notified the Commission of recent amendments to its national insolvency law, introducing a new preventive restructuring procedure and a new type of insolvency practitioner. This notification was followed by **Estonia, Spain** and **Italy** in September 2022, **Belgium** in July 2023, **Malta** in September 2023, and **Luxembourg** in January 2024. The original text was amended following additional notifications received from **Bulgaria, Czech Republic** and **France** after the Commission's initial proposal was submitted.

According to the European Commission, all the new types of insolvency procedures and practitioners met the requirements set out in the 2015 Insolvency Regulation (recast), and therefore, could be inserted

into Annexes A and B.

On 12 June 2025, the Council of the European Union adopted a general approach on a revised version of the initial proposal made by the European Commission on 12 February 2025.

On 24 June 2025, it was the turn of the Legal Affairs Committee (“**JURP**”) of the European Parliament to vote via EU Parliament's simplified procedure on the revised version of the initial proposal made by the European Commission. The text is now ready for first reading in a next plenary session of the European Parliament.

Once finally adopted by both European Parliament and Council of the European Union, the Regulation will enter into force (including in Ireland which opted in) on the twentieth day following its publication in the Official Journal of the European Union.

Insolvency III Legislative Proposal (Com/2022/702 Final)

General Approach of the EU Justice and Home Affairs Council of 12 June 2025

Following a partial general approach reached in December 2024 on Titles II (Avoidance Actions), III (Asset Tracing), V (Duties and Liability of Directors), and VIII (Transparency) of the original proposal from the European Commission (Dec. 2022), the Justice and Home Affairs Council reached a general approach on the proposal for the “Insolvency III” Directive on 12 June 2025.

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Main outcomes

Member States agreed to ensure a minimally harmonised yet sufficiently flexible framework to reach a political agreement on the **pre-pack sale mechanism** (Title IV) and **creditors' committees** (Title VII). However, the compromise text provides for the **deletion of Title VI** (Simplified Liquidation for Micro-Enterprises), due to the broad opposition from a majority of Member States regarding its practical applicability (scope) and its potential impact on existing national laws (such as the involvement of insolvency practitioners and the role of the courts). Member States also agreed to allow **temporary derogations** from the application of Titles II (Avoidance Actions), V (Directors' Duties), and VII (Creditors' Committees) in the event of "extraordinary situations that seriously disrupt economic activities" - subject to oversight by the European Commission.

Next steps

As the majority of delegations supported the text proposed by the Polish Presidency of the Council of the EU (with four abstentions from Belgium, Hungary, the Czech Republic and Spain), it will now fall to the **Danish Presidency** to conduct inter-institutional negotiations within the framework of the so-called "**trilogue**" (informal inter-institutional negotiation bringing together representatives of the European Parliament, the Council of the European Union and the European Commission). The aim of the trilogue is to reach a provisional agreement on a legislative proposal that is acceptable to both the Parliament and the Council, the co-legislators).

These upcoming trilogue negotiations will also be critical in determining the **future of Title VI** (Simplified Liquidation for Micro-Enterprises). The European Commission, through Commissioner Michael McGrath, expressed regret over the removal of these provisions

from the compromise text, a regret echoed by Lithuania, Italy, Greece, France, and Portugal, which called for its potential reintroduction during the trilogue. While some Member States (Germany, Sweden, Slovenia, Slovakia, Bulgaria, Finland, Austria, Hungary and Ireland) reiterated their opposition to including such a simplified procedure in EU legislation - arguing it would be too costly and bring no added value - others expressed conditional support for its reintroduction (Latvia, Spain and Croatia).

Vote in the JURI Committee of the European Parliament on 24 June 2025

On 24 June 2025, the Legal Affairs Committee ("**JURI**") of the European Parliament held a vote on the compromise amendments prepared by Rapporteur Emil RADEV regarding the "Insolvency III" Directive proposal.

The adopted amendments aim to ensure that the minimum harmonisation of insolvency proceedings provided for by the directive brings Member States' laws closer together, particularly by *maximising legal certainty regarding the value of a business*, improving the cost-efficiency and duration of insolvency proceedings, enabling fair and predictable distribution of value among creditors, and preserving business activity and viability. The objectives pursued include achieving lower credit costs, better access to credit, higher recovery rates for creditors, and *enhanced protection for workers*.

On Avoidance Actions: It is proposed to strengthen creditor protection by ensuring that transactions detrimental to creditors can be challenged more effectively.

On Asset Tracing: The amendments propose to grant insolvency practitioners timely and easy access to national bank account registers, direct access to central beneficial ownership registers, and other relevant registries, in order to facilitate the

Further Information

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identification and recovery of debtors' assets, especially in cross-border situations.

On Pre-Pack Sales: The amendments aim to introduce additional safeguards to ensure transparency and fairness.

On Simplified Liquidation Proceedings for Micro-Enterprises:

Rapporteur Radev recommended removing Title VI of the directive proposal in its entirety. In doing so, he took into account the various concerns expressed during consultations and aligned with those voiced by Member States within the Council of the European Union, as reflected in the Council's general approach of 12 June 2025 (significant legal uncertainties, risk of abuse, and excessive administrative burden placed on SMEs). It is worth mentioning, however, the inclusion of a "compromise" recital stating that "Member States should be able to maintain or introduce simplified liquidation procedures for micro-enterprises, provided that they comply with the high standards of transparency and fairness set out in this Directive and in other relevant instruments" (Recital 33(a)). The recital also specifies that these procedures should be available even in assetless cases (where the debtor has no assets or where available assets are insufficient to cover procedural costs or the fees of an insolvency practitioner).

On Directors' Duties: The amendments offer Member States discretionary options to derogate from the rule requiring

directors to file for insolvency proceedings within three months of the company's insolvency (or from the time it could reasonably be known), either through publicity measures or by actions taken by directors to safeguard creditors' rights.

On Creditors' Committees: The amendments confirm the introduction of creditors' committees as formalised entities to ensure that creditors can better assert their rights during insolvency proceedings, in a transparent manner (subject to trade secrets), while increasing their participation (including that of employees as creditors).

Next Steps

As a compromise text has been adopted by the JURI Committee, the final report is now available at: www.europarl.europa.eu/doceo/document/A-10-2025-0126_EN.pdf

It will be presented and voted on by the European Parliament during a next plenary session for first reading. ■