

## [INSOL Europe/Lexis+® UK Joint Project on EU Harmonisation Directive 2019/1023: status update \(all EU Member States\)](#)

1 Jun 2026

**Restructuring & Insolvency analysis:** Lexis+® UK have worked with INSOL Europe on a joint project to obtain updates from INSOL Europe's membership and Country Co-ordinators reflecting on how the new restructuring procedures created by EU Member States to implement Directive (EU) 2019/1023 on harmonisation have been used to date in practice.

Lexis+® UK (Kathy Stones) has worked with INSOL Europe (PhD. Dr. Myriam Maily) on a joint project to obtain updates from certain INSOL Europe members and Country Co-ordinators reflecting on how the new restructuring procedures created by EU Member States to implement [Directive \(EU\) 2019/1023](#) of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending [Directive \(EU\) 2017/1132](#) (the EU Directive) have been used to date in practice, which are working well and whether any improvements could be made.

This News Analysis only provides a summary of the findings and includes the latest update from Poland. Practitioners should read this News Analysis together with the original articles written by certain INSOL Europe members and Country Co-ordinators for each Member State summarised in our Practice Note: [INSOL Europe/Lexis+® UK Joint Project on EU Harmonisation Directive 2019/1023: consolidated table](#) for more information and always contact local lawyers in the relevant jurisdiction to check the current measures in force and the impact of any particular circumstances or nuances on your case.

### **Implementation timing**

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The EU Directive has been effective since 17 July 2019 (20 days after publication in the Official Journal on 26 June 2019) and had to be implemented by Member States by 17 July 2021 (within two years of it coming into force, see Practice Notes: [EU insolvency law harmonisation: restructuring Directives, preventive frameworks and what's coming next](#) and [Harmonisation through the Restructuring and Second Chance Directive—implementation tracker table](#)).

However, Member States that encountered particular difficulties in implementing the EU Directive could (under Article 34.2) request an extension of a maximum period of one year (eg to 17 July 2022), provided they notified the EU Commission by 17 January 2021—various countries did make use of this extension provision.

### **The questions**

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The following three questions were submitted to certain INSOL Europe members and Country Co-ordinators for each EU Member State—since the entry into force of the new legislation in their jurisdiction:

- (1) are there any significant changes to the implementing text (for example, if practice has shown a more precise interpretation of the written text or any other major amendments)?
- (2) identify three items that you believe are working well regarding restructuring plans in your jurisdiction
- (3) identify three items that you believe could be improved

Note that as EU Directives must be enacted locally in each Member State, there is scope for divergence between Member States.

## Q1: Any significant changes?

Most respondents confirmed that there have been no significant changes. However, changes (or prospective changes) were noted in the following Member States:

### Cyprus

No current changes but a consultation process is underway for the modernisation of Cyprus insolvency laws (both bankruptcy and corporate insolvency and restructuring), therefore significant changes may follow.

### France

Ongoing work in connection with the reform of Book IV, although no major amendments are expected.

### Italy

A new restructuring proceeding named *piano di ristrutturazione soggetto a omologazione* has been created. Other existing proceedings have been amended to comply with the EU Directive. The main proceeding regarding trade debtors is the *concordato con continuità aziendale*. The rules on restructuring proceedings for consumers and so-called 'minor debtors' have been amended as well.

### Luxembourg

The law allows for the creation of creditor categories within each class for differentiated treatment under the restructuring plan. It mandates that creditors within any given category must be treated equally. The rationale for any differential treatment must be clearly explained and justified in the reorganisation plan. Although creditors can be grouped into separate categories for voting purposes, the law stipulates only two classes of creditors. The outcome of the vote is evaluated based on the votes within each of these two classes.

### Lithuania

In restructuring proceedings under the Law on Insolvencies of Legal Persons (JANI), the debtor remains in possession. Usually, an IP (administrator) is appointed, although this is not mandatory. The IP performs only supervisory functions, ie the IP does not replace the management of the debtor.

### Poland

New procedures now in place.

### Romania

A major legislative amendment was enacted at the end of 2025 (Law 239/2025) to deal with various issues including: (i) requiring the restructuring practitioner to thoroughly analyse, justify, and provide documentary evidence proving that the debtor is strictly in a state of difficulty and not in a state of insolvency, (ii) the restructuring practitioner/concordat administrator to actively analyse the underlying documents of all claims and to independently compile the lists of affected, unaffected, and disputed claims based on this concrete verification, and (iii) providing that if a restructuring plan imposes debt reductions, it can only be confirmed via a cross-class cram-down if the favourable vote comes from at least one class that is also taking a haircut.

## Q2: Three items which are working well

Although some respondents said that it was too early to tell (eg **Bulgaria, Cyprus, Czech Republic, Hungary, Malta, Slovakia**), various key themes emerged in other Member States as aspects which are working well, including:

- correct **choice of process**: parties are correctly choosing the right procedure and using the new tools appropriately and benefiting from the range of options available (eg **Finland, Netherlands, Romania, Sweden, Poland**); sometimes this is where a new procedure has been added alongside an existing procedure (eg Slovenia) or where the preventative restructuring tool was already in place (eg **Ireland**)
- the option to use **cross class cramdown**, including over existing shareholdings is useful (eg **Denmark, France, Germany**)

- the requirement that the plan must include a **payment proposal for all creditors** should help motivate creditors to participate in the vote on the plan (eg **Luxembourg**)
- the ability for creditors to launch a **lender-led** non-consensual restructuring plan on a stand-alone basis, ie with no need for debtor's consent (neither its shareholders nor its directors) (eg **Spain**) and the ability to impose such plans on shareholders, subject to the relevant thresholds (eg **France, Germany**)
- **clear differentiation** between the 'best interest of creditors test' (regulated in article 654.7° of the Spanish Insolvency Act) and the 'fairness test' (APR, regulated in article 655.2.2) (eg **Spain**)
- clear treatment of **litigious/contingent** claims (eg **Spain**) and changes to the automatic stay (eg Poland, to some extent favouring creditors)
- the system for **detection of enterprises in difficulty** (eg **Belgium's** use of trained judges and chambers of the court actively do research on enterprises in distress)
- **interim measures/pre-insolvency** procedures are being used (eg **Greece, Italy, Netherlands, Luxembourg**)
- **drafting** of documentation is easier (eg **Greece**)
- simplified process for **creditor accession** to a restructuring plan (eg **Greece**)
- simpler procedure and **reduced costs/timeframe** (eg **Greece, Romania**)
- parties including creditors (especially financial creditors) and entrepreneurs (eg **Portugal, Poland**) are **getting more used** to the new tools (eg **Italy**)
- the **cooling off period** is useful to create a temporary standstill during the restructuring process (eg **Netherlands, Luxembourg, Romania**) plus the ability to request an extension (eg **Luxembourg**)
- **court-appointed experts** are being used effectively, adding legitimacy and structure to the new tools (eg **Netherlands**)
- a **growing body of case law** is helping to clarify the new tools and make them more appealing/predictable (eg **Portugal**) and the fact few plans are rejected by courts shows broad acceptance of new frameworks (eg **France**)

### Q3: Three items which could be improved

Although some respondees said that it was too early to tell (eg **Czech Republic, Hungary, Malta**), various key themes emerged in other Member States as aspects which could be improved, including:

- some debtors/entrepreneurs are **not aware of the new tools** (eg **Latvia**)
- the need to **serve creditors** (sometimes personally) adds to **costs and timing** (eg **Cyprus, Greece**) and the logistics of **creditor consultation** could be improved through a digital solution (eg **France**). Sometimes, it is hard to **identify the appropriate counterparts** with whom to conduct negotiations (especially public creditors, banks) (eg **France**). Unnecessary cross class cramdown amendments may make court approval harder (eg **Poland**)
- the right of all **creditors to be heard** may lead to delays (eg **Cyprus**)
- sometimes it is **hard for dissenting creditors to challenge** the plan if it is presented as a fait accompli (eg **Greece**) and better **creditor protections** are required, eg providing for the implementation of claw-back or better fortune clauses, especially where shareholders are not diluted (eg **France**)
- the ability to **bind disputed claims** or certain post-commencement claims (eg **France**)
- **contractual counterparties** may not be protected (eg **Greece**) and **ipso facto** rules could be extended (eg **Portugal, Germany**) or are unclear (eg **Luxembourg**): doubts remain over credit agreements and a

- possible inability to accelerate debt to enforce financial collateral). The company should be permitted to amend existing beneficial contracts (eg **Denmark**) or restructure onerous contracts (**Austria**)
- some tools may be **open to misuse** (eg **Cyprus**; use of the appointment of an examiner to take back control from the receiver)
  - early restructuring tools **requiring creditor support** (eg **Finland**) or support from in the money creditors for approvals by a single class (eg Ireland) or consent from impacted tax authorities (eg **Romania**) may reduce the flexibility of the tools
  - assessing **liquidation values** for cross class cramdown may be complex (eg **Italy, Belgium**)
  - cross border **recognition and enforcement of judgments** opening restructuring /insolvency proceedings in third countries (ie those which are not Member States) is complex (eg **Italy**)
  - some tools are **less suitable for SMEs** given the costs/lack of DIP financing (eg **Netherlands, Sweden**)
  - the **timeframe** for medium to large enterprises with complex creditor masses and syndicated loans is too tight for drafting and negotiating the restructuring plan (eg **Romania**)
  - **caselaw** on the impact of the cooling-off period on ongoing obligations is inconsistent leading to **uncertainty** (eg Netherlands) or is at an early stage of development (eg **Austria**)
  - some **definitions are uncertain** (eg **Belgium** definition of corporate interest)
  - some **concepts are uncertain** (eg **Spain**: (i) lack of express criteria as to the fairness of the demarcation of the perimeter of affected classes by the proposer of a restructuring plan, and (ii) treatment of competing non-consensual restructuring plans)
  - **court appointed observers** may be appointed **too late** to effectively perform their duties (eg **Netherlands**) or the regulation of any insolvency practitioners appointed is too strict (eg **Poland**)
  - (in some cases) **voting thresholds** are by votes cast rather than total amount of claims, meaning restructuring can take effect **without the consent of the majority** (eg **Portugal**) or the voting rights of some parties are unclear (eg **Belgium**), or clarification is required on the thresholds for minority stakeholder objections in light of **information asymmetry** (eg **Germany**) or there's no possibility of cram-down between **categories of creditors within the same class** or the possibility of creating more than two classes (eg **Luxembourg**)
  - lack of availability of **interim and new finance** (eg DIP finance) (eg **Portugal, Romania, Germany**)/using the **secured assets to finance** the restructuring (eg **Denmark**)
  - implementation of a targeted **debt to equity swap** (eg **Denmark, Austria**) or permitting reorganisation involving transferring a company's shares (eg **Luxembourg**)
  - clarifying the **role of shareholders** in particular approval for initiating a StaRUG process, plus clarifying provisions regarding shifting of fiduciary duties/liability of directors (eg **Germany**)
  - lower **formal requirements for filing** (eg **Austria, Slovakia, Slovenia**) or expanding the entities it can apply to (eg banks, see **Poland**)
  - **permitting amendments** to existing restructuring plans (eg **Slovakia**)
  - providing false or incomplete information or being insolvent **automatically** leads to bankruptcy, so preventing rescue (eg **Slovenia**)
  - impact on **group companies** may be unclear (eg **Belgium**)

## Document Information

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