



INSOL Europe/LexisPSL Joint Project on EU Harmonisation Directive 2019/1023

Consolidated table

As at 29 September 2022

LexisPSL are working with INSOL Europe on a joint project to obtain articles from INSOL Europe's membership and Country Coordinators showing how EU Member States have implemented [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).

We look at how various EU Member States (plus the UK) have updated or amended their insolvency and restructuring laws to implement the EU Directive.

This table only provides a summary of some of the key features and you should read the full article 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

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: [Harmonising insolvencies and restructurings across Europe](#) 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.

Consolidated table


17 questions were answered for each country and the table below summarises some of the key findings.


The final column gives links to the full article for each country which answers all 17 questions.


The table will be updated with more countries as more articles are received.

Country	What is/are the name of the proceeding(s) (Q1)	What are the entry criteria? (Q3)	What is the voting threshold for approval? (Q8)	Can creditors be crammed down? (Q12)	Is the proceeding within Annex A of the EU Recast Regulation on Insolvency 2015/848? (Q 14)	Link to full article
 Austria	European restructuring proceedings (<i>Europäische</i>)	Requires likelihood of insolvency (<i>wahrscheinliche Insolvenz</i>).	If in every creditor class, (i) the simple majority in number and (ii) a	Yes: if (i) the majority of classes including the secured creditors or the	Yes: European restructuring proceedings	See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU)

	<p><i>Restrukturierungsverfahren</i>)</p> <p>Regular restructuring proceedings</p> <p>Simplified restructuring proceedings</p>	<p>A debtor is considered likely insolvent if the debtor's viability would be threatened without restructuring, in particular in case of imminent illiquidity.</p> <p>Likelihood of insolvency is (rebuttably) assumed to be in place if the crisis indicators known from the Austrian Business Reorganization Act (<i>Unternehmensreorganisationsgesetz</i>) are</p>	<p>majority of at least 75 % in value (both calculated based on the creditors present at the hearing) vote in favour of the plan.</p>	<p>majority of the "in the money" classes voted in favour of the plan and (ii) dissenting creditor classes are not treated worse than same ranking and treated better than subordinated classes.</p>	<p>No: regular proceedings and simplified proceedings</p> <p>Unclear: confidential restructuring proceedings</p>	<p>2019/1023 in the EU Member States—Austria</p> <p>Also available on the INSOL Europe website at:</p> <p>https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023</p>
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		met, i.e. the equity ratio (<i>Eigenmittelquote</i>) is less than 8% and the notional debt repayment period (<i>fiktive Schuldentilgungsdauer</i>) is more than 15 years.				
 Croatia	Pre-insolvency proceeding (<i>predstečajni postupak</i>)	<p>The criteria is impeding insolvency (but not the state of more permanent insolvency), proved by :</p> <ul style="list-style-type: none"> - one or more outstanding payments registered in the 	A simple majority in each class and if the creditors who voted for the plan hold two thirds of claims in value.	Yes: if the creditors are not worse off than in case that there is no plan, that they adequately participate in the economic benefits with all parties, and at least one of the classes that accepted the plan is not the class of shareholders.	No	<p>See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU Member States—Croatia</p> <p>Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-</p>


		Payment Transactions Order Register - failure to pay a salary owed to an employee for over 30 days - failure to pay salary contributions and taxes owed to an employee for over 30 days				europelexispsl-research-on-implementation-of-the-eu-directive-20191023
 Cyprus	Examinership	The debtor is unable to pay its debts or it must be likely that the debtor	Approved by a majority of creditors, in terms of value of	Yes if approved by the majority of the voting classes of affected parties, provided	Yes it will be listed.	See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU)

		will be unable to pay its debts, the debtor must not have passed a resolution for its winding up and no order for liquidation has been made against it.	claims, in each class.	that at least one of those classes is a secured creditors class or is senior to the ordinary unsecured creditors class; or, failing that at least one of the voting classes of affected parties.		2019/1023 in the EU Member States—Cyprus Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023
 Czech Republic	Preventive restructuring	The debtor is not in bankruptcy in the form of insolvency, but when taking into account all the circumstances, it can be reasonably assumed that	Approved by at least a three-quarters majority of the affected parties in each class.	Yes, if: it finds no other reason for not doing so, if the restructuring plan has been accepted by the majority of classes of affected parties of unrelated persons and	Not yet clear.	See News Analysis: INSOL Europe/LexisPSL research on implementation of EU Directive 2019/1023—Czech Republic Also available on the INSOL Europe website at:


		<p>their financial difficulties reach such a seriousness that if the proposed restructuring measures were not adopted, it would become insolvent over time (ie if the operation of the business plan does not produce revenue that is sufficient to pay the monetary debts when due).</p>		<p>if at the same time:</p> <p>(i) at least one of these classes is a class of the affected party with a secured claim,</p> <p>or (ii) at least one of these classes is a class of affected parties whose claims would be satisfied before the claims of unsecured creditors with unsecured claims in any insolvency proceedings.</p> <p>Yes if: it finds no other reason for not doing so, if the restructuring plan has been accepted by at least one class of</p>		<p>https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023</p>
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				<p>affected parties, with the exception of:</p> <ul style="list-style-type: none">(i) classes of shareholders of the entrepreneur(ii) classes of related persons(iii) classes of affected parties for whom it can be reasonably assumed that they would not receive any performance or retain any property rights if the entrepreneur's bankruptcy was resolved by bankruptcy, <p>or (iv) classes of affected parties who, according to the restructuring plan, would not receive any payment or would</p>		
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				retain any property rights when valuing the business plan of the entrepreneur, assuming the operation of the business plan is maintained.		
 Denmark	Preventive restructuring procedure (<i>forebyggen de rekonstruktion</i>)	<p>The debtor must be either insolvent or likely to become insolvent.</p> <p>The likelihood of becoming insolvent is a stage prior to insolvency (defined as being unable to fulfil one's obligations as they fall due, and such situation is not</p>	<p>The majority (simple) of the classes must vote in favor.</p> <p>Likewise, the majority (simple) of creditors in each class must vote in favor.</p>	<p>Yes if the majority of classes vote in favor of the restructuring plan.</p> <p>However, dissenting creditors cannot be forced to be treated worse than other similar ranked creditors.</p>	No; The EU Recast Regulation on Insolvency 2015/848 is not applicable in Denmark due to Denmark's legal reservations.	<p>See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU Member States—Denmark</p> <p>Also available on the INSOL Europe website at:</p> <p>https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023</p>


		just temporary).				
 Estonia	In relation to legal entities: 'saneerimis menetlus', and for natural persons: 'kohustustest vabastamise menetlus'.	(i) The debtor is not permanently insolvent, but the occurrence of insolvency in the future is likely (ii) the debtor needs restructuring (iii) sustainable continuing management of the debtor is likely to be possible after restructuring.	If groups of affected persons have not been formed, the plan has been adopted if creditors who hold at least two thirds of all votes voted in favour of it. If the affected persons are divided into groups on the basis of the restructuring plan, the plan has been adopted if the persons affected by the plan, who hold at least two-thirds of the votes represented in the group, voted in each group.	Yes if: (i) the conditions set forth in § 28 (5) of Reorganisation Act have been complied with, with the exception of the condition of affirmative votes specified in § 24 (4) (ii) the restructuring plan has been approved by at least one group of affected persons, with the exception of the group specified in § 21 (2) point 4 of the Act or another group which, as a result of the evaluation of the	Proceedings called 'kohustustest vabastamise menetlus' as part of the bankruptcy proceedings ('pankrotimenetlus') are listed in Annex A. As for 'saneerimismenetlus' and the appointed restructuring advisor ('saneerimisniustaja'), they should be listed in Annex A & B.	See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU Member States—Estonia Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023

				<p>value of the enterprise based on the restructuring plan, would not receive payments or retain interests, or who do not have a reasonable expectation of receiving payments or maintain interests if the order of satisfaction provided for in the Bankruptcy Act is applied</p> <p>(iii) the restructuring plan ensures that groups of affected creditors who remain in disagreement are treated at least as favourably as any group of the same rank and more</p>		
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				<p>favourably than any group of a lower rank</p> <p>(iv) on the basis of the restructuring plan, no group of affected persons may receive more than their total claim against the debtor.</p>		
 Finland	<p>Early proceedings (<i>varhainen saneerausmenettely</i>) and regular restructuring proceedings (<i>perusmuotoinen saneerausmenettely</i>)</p>	<p>The debtor must be facing impending insolvency (ie only a risk of insolvency).</p> <p>Early proceedings cannot be started, if one of the barriers to restructuring exists:</p> <p>(i) the debtor is insolvent;</p>	<p>If more than one half of the creditors participating in the vote in each group of creditors and the total claims of the creditors in favour of approving in each group of creditors is more than one half of the total claims of the creditors participating in</p>	<p>Yes at the request of the person who prepared the draft, the administrator or the debtor, subject to the following conditions: (i) there is no barrier to approval; (ii) a majority has voted for the approval of the programme in at least one group of creditors, and the claims of all of the</p>	<p>Yes, restructuring proceedings are included in Annex A (“<i>yrittysaneeraus</i>”). This is an umbrella term that includes both the early and the regular proceedings.</p>	<p>See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU Member States—Finland</p> <p>Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-</p>


		<p>(ii) it is probable that the debtor's assets are not sufficient to cover the costs of the restructuring proceedings and no one else has undertaken to cover these costs;</p> <p>(iii) it is probable that the debtor will not be able to repay debts arising after the commencement of the proceedings;</p> <p>(iv) the debtor's books are materially incomplete or erroneous, unless it can be</p>	<p>the vote in that group.</p>	<p>creditors who have voted for approval represent at least one fifth of the known claims which are to be taken into consideration; (iii) according to the programme, none of the creditors is to receive a benefit of a greater value than the amount of his or her claim; (iv) if, according to the programme, the creditors are to receive payment in excess of the minimum level which is required for the group of creditors in question under this Act, this benefit is allocated among</p>		<p>on-implementation-of-the-eu-directive-20191023</p>
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		shown that the books can without difficulty be rectified into a proper and reliable condition.		the groups of creditors in a reasonable manner; and (v) according to the programme, creditors with claims that have a lower priority than the group of creditors voting against approval, other than one composed of secured creditors, are not to receive payment.		
 France	Updates to: safeguard (<i>sauvegarde</i>), accelerated safeguard (<i>sauvegarde accélérée</i>) and judicial reorganisation	Safeguard proceedings: the existence of financial difficulties which may lead to the cessation of payments; the criterion has to be checked by	Two thirds of the amount of the claims.	Yes; if the majority of the classes have not voted in favour of it under certain conditions: the agreement of a majority of classes including at least one class of creditors holding securities	Yes: Safeguard proceedings and accelerated safeguard opened after a conciliation. No: Conciliation proceedings.	See News Analysis: INSOL Europe/LexisPSL research on implementation of EU Directive 2019/1023—France Also available on the INSOL Europe website at:

	(<i>redressement judiciaire</i>).	<p>the commercial court.</p> <p>Judicial reorganisation proceedings: two cumulative criteria, namely a state of cessation of payments and the possibility of recovery.</p> <p>The cessation of payments is defined by the insufficiency of available assets and reserves that would allow the debtor to meet the liabilities due.</p>		<p>or any other class having a higher rank than the unsecured creditors, or, failing that, by a class which would not be entitled to any payment in the event of a judicial liquidation.</p>		<p>https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023</p>
 Germany	Restructuring plan (under 'StaRUG')	Where a debtor faces a 'likelihood of insolvency', meaning the	Each class voting on the Restructuring Plan proposal must consent	Yes if: (a) the majority of classes vote in favour of the Restructuring	Yes: publicly heard StaRUG schemes (' <i>die öffentliche Restrukturierungssche</i> ') were	See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU)


		<p>company: (a) is 'imminently illiquid' (<i>drohend zahlungsunfähig</i>) pursuant to Section 18 of the German Insolvency Code (<i>Insolvenzordnung</i>), i.e. it is more likely than not that the debtor will be unable to pay its debts within the next 24 months; and (b) is not 'illiquid' or 'over-indebted' (ie failing either the insolvency cash-flow and/or balance-sheet test)</p>	<p>with a majority of at least 75 percent of the respective voting rights</p>	<p>Plan (in each case with the required majority); (b) members of the dissenting class can be expected to be in a position that is not worse than without the Restructuring Plan; and (c) members of the dissenting class receive an adequate share in value created by the Restructuring Plan</p>	<p>included in Annex A of the EU Insolvency Regulation. (however, the option to have a case listed and heard in court publicly will only be available in Germany as of 17 July 2022, once the respective rules for publication have come into effect)</p> <p>No: Private StaRUG schemes</p>	<p>2019/1023 in the EU Member States—Germany</p> <p>Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023</p>
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 Greece	The rehabilitation procedure.	Covers a debtor (i) who is in a state of 'present or potential inability to fulfil its pecuniary obligations in a general manner' (ii) even when there is a mere likelihood of insolvency or, (iii) in cessation of payments, namely in a permanent inability to fulfil its pecuniary obligations in a general manner	The consent of the debtor as well as creditors representing (i) more than fifty percent (50%) of the debtor's secured claims and, (ii) more than fifty percent (50%) of the remaining claims, is required	Yes if: (i) the agreement has been approved by creditors representing more than 60% in value of the debtor's total claims and more than 50% in value of secured claims (as a result, only the unsecured creditor class may be crammed down) (ii) the dissenting individual creditors are treated more favourably than each creditor whose claim has a lower priority, according to the ranking of insolvency liquidation (this	Yes already included	See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU Member States—Greece Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023
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				<p>provision resembles the relative priority rule but applies at the level of the individual creditor and not the creditor class as a whole)</p> <p>(iii) no category of affected creditors can receive more than the value of their claim against the debtor under the rehabilitation agreement and,</p> <p>(iv) the general ratification conditions are satisfied</p>		
 Hungary	<p>Restructuring proceedings ('<i>szerkezetátalakítási eljárás</i>') and public</p>	<p>Likelihood of insolvency defined as: a situation in which there are reasonable grounds for</p>	<p>(i) The support of a numerical majority of all the affected creditors with recognised or uncontested claims in each</p>	<p>No</p>	<p>Yes: '<i>Nyilvános szerkezetátalakítási eljárás</i>' (public restructuring proceedings) will</p>	<p>See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU</p>

	restructuring proceedings ('nyilvános szerkezetátalakítási eljárás')	believing that the debtor will be unable to meet their outstanding payment obligations when they fall due, without taking further measures.	creditor class and (ii) a majority of the votes in proportion to the total number of votes that may be cast by the affected creditors in the creditor class.		be listed in Annex A No: 'Szerkezetátalakítási eljárás' (i.e. non-public restructuring proceedings) will not be listed.	Member States—Hungary Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023
 Ireland	Examinership	If the company is unable or likely to be unable to pay its debts as they fall due; no resolution for a winding-up subsists; no order has been made for the winding-up of the company; and the company has no	A majority in number representing a majority in value (ie more than 50%) of the claims represented at that meeting plus (i) a majority of the voting classes of creditors whose interests or claims would be impaired by the scheme of	Yes: 3A of the European Union (Preventive Restructuring) Regulations 2022 requires a majority in number and value of creditors to approve the proposals and requires that where there are dissenting creditors the proposals satisfy	Yes: examinership appears in Annex A.	Available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023


		<p>obligations in relation to a bank asset that has been transferred to the Irish National Asset Management Agency (NAMA). Plus there is a reasonable prospect of the survival of the company and the whole or any part of its undertaking as a going concern.</p>	<p>arrangement have accepted them, provided that at least one of those creditor classes is a class of secured creditors or is senior to the class of ordinary unsecured creditors (eg creditors whose claims are afforded preferential status pursuant to statute); or (ii) where the condition prescribed in (i) above has not been satisfied, at least one voting class of creditor whose interest would be impaired by the scheme of arrangement and who would be an "in the money creditor" in a liquidation has</p>	<p>the best-interest-of-creditors test. 3B refers states where the proposals have not been accepted with the s. 540 process the court may approve the proposals as long as they have been accepted by a class of creditors whose interests are impaired (as long as this class is a class of secured creditors or is senior to a class of unsecured creditors) or alternatively by a class of creditors whose interests are impaired and who would not be 'out of the money' creditors.</p>		
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			voted in favour of the scheme of arrangement.			
 Italy	<p><i>Piano di ristrutturazione soggetto a omologazione</i> (PRO) is a new proceeding.</p> <p>Other existing proceedings have been amended to comply with the EU Directive.</p> <p>The main proceedings regarding trade debtors include <i>Concordato con continuità</i></p>	<p>In both proceedings, state of crisis or insolvency. "Crisis" means the state of the debtor where insolvency is probable, and demonstrated by inadequacy of cash flow to meet its obligations in the next following twelve months.</p> <p>"Insolvency" means the state of the debtor demonstrated by defaults or other external</p>	<p>CPCA and PRO proceedings: Favourable vote by all classes of creditors is required to approve the proposal. In each class, the proposal is approved if</p> <p>(i) a majority of the claims of creditors eligible to vote is reached or, failing that,</p> <p>if (ii) two thirds of the claims of creditors eligible to vote is reached, if creditors holding at least one-half of the total claims</p>	<p>CPCA: Yes, creditors, except for employees, may be crammed down with regard to distribution of value in excess of the liquidation value. Specifically, value in excess of the liquidation value is distributed in such a way that, apart for those of employees, claims included within dissenting classes should receive overall treatment at least equal to that of the classes of the same degree and more favorable than that of the</p>	<p>CPCA may be considered already included in Annex A as a species of concordato preventivo</p> <p><i>Piano di ristrutturazione omologato</i> is not (yet) included.</p>	<p>See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU Member States—Italy</p> <p>Also available on the INSOL Europe website at:</p> <p>https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023</p>

	<p><i>aziendale</i> (CPCA)</p>	<p>facts, which show that the debtor is no longer able to meet its obligations regularly.</p>	<p>of the same class have expressed their vote.</p> <p>CPCA proceedings only: if such unanimous favourable vote of all classes has not been obtained, the proposal is approved by a majority of the classes, provided that:</p> <p>(i) at least one is made up of creditors with pre-emption rights, or, failing that,</p> <p>(ii) the proposal is approved by at least one class of creditors who would be at least</p>	<p>classes of a lower degree.</p>		
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			partially satisfied respecting the ranking of the legitimate causes of pre-emption also (iii) on the value exceeding that in liquidation			
 Lithuania	Restructuring proceedings under the Law on Insolvencies of Legal Persons (JANI)	Restructuring proceedings under JANI can be opened if all the following conditions are met: 1) the debtor is facing financial difficulties 2) the debtor is viable 3) the debtor is not being wound up by	Creditors shall be deemed to have approved the draft restructuring plan if, in each group of creditors, creditors affected by the restructuring plan have approved the draft restructuring plan, whose claims amount in value to more than 1/2 of the total amount of the claims of creditors in that	Yes, to an extent: 1) (Holdout) creditors can be crammed down 2) shareholders can be crammed down with approved of the court if certain conditions are met, including a qualified voting majority 3) in addition, where the plan does not get the mandatory support in one of	Yes: restructuring bankruptcy proceedings	both and See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU Member States—Lithuania Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-


		<p>reason of bankruptcy.</p> <p>Financial difficulties of a legal person means that the legal person is insolvent or that there is a likelihood of insolvency.</p> <p>A legal person is insolvent if is unable to meet its financial obligations in a timely manner or if the legal person's liabilities exceed the value of its assets.</p>	<p>group approved by the court.</p>	<p>the two statutory groups.</p> <p>However, since JANI does not allow the formation of groups other than the two statutory groups, it is not possible to cram down particular creditors by forming specific groups for such creditors (eg suppliers, employees)</p>		<p>on-implementation-of-the-eu-directive-20191023</p>
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		<p>A likelihood of insolvency exists if there is a realistic possibility that a legal entity will become insolvent within the next three months.</p> <p>Viability of a legal person is defined as the state in which the legal person carries on business activities that enable it to meet its future obligations.</p>				
 Portugal	Special Revitalisation Proceedings (<i>Processo Especial de</i>	Two prerequisites: pre-insolvency (ie imminent insolvency and economic	In the first case, approval requires the approval in each class of more than two thirds and then,	Yes; holdout creditors may be crammed down, either as a class	Yes	See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU


	<p><i>Revitalizaçã o')</i></p>	<p>difficulties) and ability to recover (a concept not defined by the law nor in the literature).</p> <p>Economic difficulties are defined as the situation where the debtor faces serious difficulties to fulfil their obligations. Imminent insolvency is not legally defined, but refers to the situation where the debtor anticipates that they will not be able to fulfil their obligations in the near future</p>	<p>there are four possibilities:</p> <p>a) the approval of every class;</p> <p>b) the approval of the majority of classes, provided at least one is of secured creditors;</p> <p>c) if there is no class of secured creditors, the approval of the majority of classes, provided at least one is of unsubordinated creditors;</p> <p>or d) if there is a tie, the approval of at least one class of unsubordinated creditors.</p>	<p>or as individual creditors.</p>		<p>Member States— Portugal</p> <p>Also available on the INSOL Europe website at:</p> <p>https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023</p>
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		(ie, when the debts become due).	In the latter case, there may be two possibilities: a) provided there is a voting quorum of one third of the total (recognised) claims which cast vote, the approval of more than two thirds of the claims which effectively cast vote and of more than 50% of the claims which effectively cast vote corresponding to unsubordinated claims; b) the approval of more than 50% of the total (recognised) claims which cast vote and of more than 50% of the claims which effectively cast vote			
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			corresponding to unsubordinated claims.			
 Romania	Restructuring Agreement and the composition agreement (<i>preventive concordat</i>) proceeding	The debtor must prove that it is in difficulty, not only in financial difficulty. Difficulty is a condition caused by any circumstance which results in a temporary impairment of business giving rise to a real and serious threat to the debtor's future ability to pay its debts as they fall due, unless appropriate measures are taken; the debtor in difficulty is able	An absolute majority of the value of the claims. The restructuring plan must be voted by all the categories of claims. For the Restructuring Agreement, where the debtor does not opt for the establishment of categories of claims, the agreement will be deemed accepted if it is approved by an absolute majority of the value of the claims affected.	Yes; If, in an agreement proceeding or preventive composition, is approved by: (i) by a majority of the categories of claims, one of which must be a category of claims benefiting from preferential causes of action or any category of claims other than the unsecured claims; or (ii) at least one category of claims with voting rights other than a category of claims which would not receive any	Yes, Restructuring Agreement will be listed; Concordatul preventiv is already listed	See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU Member States—Romania Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023

		to meet its obligations as they fall due (ie actual insolvency is not a requirement).		payment in the event of bankruptcy; (iii) voted by at least 30% of the total claims affected, the syndic judge may approve the restructuring plan.		
 Slovakia	Preventive restructuring proceedings	Applies to a debtor who (i) is a legal person, (ii) is registered with the so-called Register of Partners of the Public Sector (special registry under Slovak law), (iii) is subject to impending insolvency (see below),	A public restructuring plan is approved by the affected creditors if: (i) each group of secured creditors has voted in its favour, (ii) in each group of unsecured creditors, at least a æ majority of the voting creditors in that group, calculated by amount of	Yes	Yes it is expected to be included only with regard to the public preventing restructurings. Non-public preventive restructuring should not be covered.	See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU Member States—Slovakia Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-



		<p>however not insolvent and, (iv) has an enterprise which must still be viable.</p> <p>Impeding insolvency means where the debtor is at risk of illiquidity within the next 12 months.</p>	<p>claims, have voted in its favour,</p> <p>(iii) in each group of unsecured creditors, a majority of the creditors with claims exceeding 1 % of the amount of claims of the voting creditors in that group, counted on the basis of the one vote per creditor rule, have voted in its favour,</p> <p>(iv) in each group of related and subordinated creditors, a majority of the voting creditors in that group, calculated on the basis of the amount of</p>			<p>on-implementation-of-the-eu-directive-20191023</p>
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			claims, voted in its favour, (v) in each group of shareholders, a majority of the shareholders voted in its favour.			
 Slovenia	Restructuring (<i>postopek preventivnega prestrukturiranja</i>), and judicial restructuring (<i>postopek sodnega prestrukturiranja zaradi odprave grozeče insolventnosti</i>)	If the debtor is likely to become insolvent within a period of one year. The draft legislation does not further specify how the assessment on whether the debtor will become insolvent or not is done. However, pursuant to the new legislation, threatened insolvency will be presumed if the creditors holding at least	Proposed judicial restructuring procedure: the consent of the creditors which together hold at least 60% of the weighed claims subject to compulsory settlement (the method for calculating voting shares is explicitly specified in the Slovenian Insolvency Act). Existing restructuring procedure: approved by the debtor and	Yes, secured financial creditors may be crammed down under a compulsory settlement (which will have to be approved in the proposed judicial restructuring procedure) by the consent of the creditors which together hold at least 60% of the weighed claims subject to compulsory settlement.	The existing restructuring procedure is already listed in Annex A, and the proposed judicial restructuring procedure should be listed as well.	See News Analysis: INSOL Europe/LexisPSL research on implementation of EU Directive 2019/1023—Slovenia Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023

		30% of all claims against the debtor consent to the opening of restructuring proceedings to remedy the threatened insolvency.	creditors whose claims represent at least 75% of the aggregated amount of unsecured financial claims (included in the list of claims). If the secured financial claims are also restructured, a separate majority of creditors holding 75% of such claims is required.			
 Spain	Restructuring Plans (“Planes de Reestructuración”)	The debtor must be in a scenario of likelihood of insolvency (“probabilidad de insolvencia”), imminent insolvency (“insolvencia inminente”) or current insolvency (“insolvencia actual”).	Claims representing at least two thirds of the total value of the claims in that class must vote in favour. If the class consists of secured claims, the voting threshold is raised to three quarters of the total value of the claims in that class. To obtain a court	Yes; if the Restructuring Plan was approved by a simple majority of the classes, provided that at least one of those classes would have been granted the status of secured claims or privileged claims within the proceedings; or, failing that if there is a favorable vote of	Yes: the Restructuring Plan will be listed in Annex A	Available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023

			homologation, it must be approved by all classes of credits, by the debtor or, as the case may be, by the shareholders	at least one class which, according to the insolvency ranks, may reasonably have received a payment after a valuation of the debtor as a going concern.		
 Sweden	Restructuring proceedings (' <i>Företagsrekonstruktion</i> ')	If :(i) the debtor cannot pay its due debts or that such inability will occur shortly ('impeding insolvency') (ii) that the debtor in any other respect has financial difficulties that involve a risk of insolvency ie impeding insolvency ('a risk of insolvency') (iii) in addition to impeding insolvency, there must exist a justified	If in each group at least two-thirds of the voters have accepted the plan, and their claims or rights amount to at least two-thirds of the claims or rights for which voting rights may be exercised.	Yes, if: (i) there is no reason to refuse approval (ii) the plan has been approved by more than half of the stakeholder groups and: at least one of these groups is made up of creditors whose claims are linked to preferential rights, security rights or set-off rights, or o at least two of these groups consist of creditors who can be expected to be paid in the event of the debtor's bankruptcy (iii) the group or	Corporate reorganisation is already covered by Annex A.	See News Analysis: INSOL Europe/LexisPSL joint project on the implementation analysis of the Directive (EU) 2019/1023 in the EU Member States—Sweden Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023

		<p>reason to assume that the viability of the business can be secured through the restructuring procedure ('the viability test') and (iv) the debtor's accounting must be in order and not have such deficiencies or errors that the financial development and result is essentially not possible to assess.</p>		<p>groups of interested parties that voted against the plan are treated at least as favorably as other groups that have the same priority in the event of the debtor's bankruptcy (iv) the group or groups of interested parties that voted against the plan have their claims fully satisfied with the same or equivalent funds if a group, that in the event of the debtor's bankruptcy has a lower priority, is to receive any payment or retain any right under the plan, and; (v) no group of interested parties under the plan receives or retains more than the full value of their claims or rights.</p>		
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 The Netherlands	<i>Wet Homologatie Onderhands Akkoorden</i> (WHOA)	The debtor must, with reason, be faced with the prospect of not being able to continue paying his debts; the importance of being able to meet current financial obligations (eg salary payments, gas, water, electricity and monthly rent) is emphasized.	Two thirds of the total claim value.	Yes	Yes: public WHOA restructuring procedure. No: private WHOA restructuring procedure.	See News Analysis: INSOL Europe/LexisPSL research on implementation of EU Directive 2019/1023—The Netherlands Also available on the INSOL Europe website at: https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023
 The UK	Part 26A restructuring plan	Condition A: the company has encountered, or is likely to encounter, financial difficulties that	75% in value of all those present and voting in each class must vote in favour of the plan.	Yes	No	See News Analysis: INSOL Europe/LexisPSL research on implementation of EU Directive 2019/1023—the UK

		<p>are affecting, or will or may affect, its ability to carry on business as a going concern, and</p> <p>Condition B:</p> <p>(a) a compromise or arrangement (arrangement includes a re-organisation of the company's share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods) is proposed</p>				<p>Also available on the INSOL Europe website at:</p> <p>https://www.insol-europe.org/technical-content/insol-europelexispsl-research-on-implementation-of-the-eu-directive-20191023</p>
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		<p>between the company and (i) its creditors, or any class of them, or (ii) its members, or any class of them, and (b) the purpose of the compromise or arrangement is to eliminate, reduce or prevent, or mitigate the effect of, any of the financial difficulties mentioned.</p>				

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The questions

INSOL Europe and LexisPSL posed the following 17 questions (which largely track the requirements of the EU Directive) for each country:

1. When did/will the new restructuring law come into force? What is/are the name of the new proceedings which comply with the EU Directive?
2. Is court approval automatically required? Is court involvement possible during the course of the proceedings? (for eg to rule on short notice on conflicts regarding classes of creditors with voting rights, etc...)
3. What are the entry criteria (ie must insolvency be proved)? Could you please define the entry criteria under your national legislation?
4. Can foreign companies use the process?
5. Does the debtor (ie company's management) remain in possession or is an insolvency practitioner (or any other professional, in that case could you please specify) automatically appointed?
6. Is there any moratorium on claims to protect the debtor during the process? What is the minimum and maximum length of the stay?
7. Are creditors placed into classes for voting purposes? How are 'affected creditors' defined under your legislation?
8. What is the voting threshold to approve the restructuring?
9. Can shareholders be bound?
10. How are secured creditors treated?
11. How are employees treated?
12. Can certain (holdout) creditors be crammed down? Is the absolute priority rule applied?
13. Can onerous contracts be disclaimed? Are there any restrictions on ipso facto clauses?
14. Will the new procedure be listed in Annex A of the EU Recast Regulation on Insolvency 2015/848? If not, how will it be recognised in other countries?
15. Are new money or other arrangements granted any protection/priority (eg DIP finance)?
16. How long should the process take (roughly)?
17. How much is the process likely to cost (roughly)?