

Early restructuring and a second chance for entrepreneurs

November 2016

Věra Jourová
Commissioner for Justice,
Consumers and Gender Equality



Directorate-General for
Justice and Consumers



Finland Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Finland? ⁽¹⁾

Effectiveness of insolvency proceedings

1

Finland ranks 1st among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

FI 0.9

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

FI 90.3%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Finland is **restructuring**.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*. <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Finland ⁽²⁾	With the new rules
Early restructuring requires full court involvement, from formally opening the procedure - including the appointment of an insolvency practitioner and voting on a plan - to the confirmation of the plan by the court.	✓ Flexible preventive restructuring frameworks can make access to early restructuring easier, particularly for SMEs. Where necessary, the courts must be involved to safeguard the interests of third parties.
A general automatic breathing space from enforcement actions is provided during the whole duration of the proceedings.	✓ The debtor can have access to a time-limited "breathing space" of no more than 4 months from enforcement actions, renewable until a maximum duration of 12 months under strict conditions. This will not only facilitate negotiations, but also provide further predictability and legal certainty for creditors.

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.

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Germany Country fact sheet

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What is the situation currently in Germany? ⁽¹⁾

Effectiveness of insolvency proceedings

2

Germany ranks 2nd among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

DE 1.2

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

DE 84.4%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Germany is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Germany ⁽²⁾	With the new rules
There are strict entry conditions for restructuring and heavy court involvement that may deter debtors in financial difficulties from early access to restructuring.	✓ Companies in financial difficulties will have easier access to flexible preventive restructuring frameworks . Where necessary, the courts will be involved to safeguard the interests of third parties.
All creditors are automatically involved in the restructuring process (collective proceedings).	✓ Early restructuring will not have to involve all creditors , but it can only involve part of them, e.g. financial creditors.
Discharge will usually be granted after five or six years. Discharge can be granted after 3 years only when at least 35% of the claims are satisfied.	✓ Honest over-indebted entrepreneurs can have access to a full discharge of their debt after a maximum period of 3 years and any repayment obligation will have to be adapted to individual circumstances. There will be adequate safeguards to prevent abuse.

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.

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Portugal Country fact sheet

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What is the situation currently in Portugal? ⁽¹⁾

Effectiveness of insolvency proceedings

3

Portugal ranks 3th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

PT

2.0

EU

2.0

Recovery rate for secured creditors following insolvency proceedings

PT

74.2%

EU

65.0%

► The most likely outcome for debtors in financial difficulty in Portugal is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Portugal ⁽²⁾	With the new rules
<p>There are few or non-efficient early warning tools alerting debtors to the risk of insolvency and the urgency to act in order to avoid liquidation.</p>	<ul style="list-style-type: none"> ✓ Debtors will have access to early warning tools which can detect a deteriorating business and lead to more restructurings at an early stage. ✓ A culture of resorting early to preventive restructurings will develop.
<p>Dissenting classes of creditors can obstruct the restructuring process.</p>	<ul style="list-style-type: none"> ✓ As a minimum, there will be classes of secured and unsecured creditors in order to ensure that similar rights are treated equitably and that restructuring plans can be adopted while respecting the legitimate interests of creditors. ✓ In order not to jeopardise restructuring, dissenting classes of creditors and shareholders can be outvoted under strict conditions. There are safeguards to protect everyone's legitimate interests.
<p>Debt discharge period is 5 years and depends on a court decision. The debt discharge regime is too onerous for many entrepreneurs.</p>	<ul style="list-style-type: none"> ✓ Honest insolvent entrepreneurs will have access to a full discharge of their debt after a maximum period of 3 years without prejudice of adequate safeguards put in place to prevent possible abuses.

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Denmark Country fact sheet

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The proposed approach is expected to:

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- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Denmark? ⁽¹⁾

Effectiveness of insolvency proceedings

4

Denmark ranks 4th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

DK 1.0

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

DK 88.0 %

EU 65.0 %

► The most likely outcome for debtors in financial difficulty in Denmark is restructuring.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*; <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Denmark ^(*)	With the new rules
<p>There is full court involvement, from formally opening the procedure - including the appointment of an insolvency practitioner and voting on a plan - to the confirmation of the plan by the court.</p>	<p>✓ Flexible preventive restructuring frameworks can make access to early restructuring easier, particularly for SMEs. Where necessary, the courts must be involved to safeguard the interests of third parties.</p>
<p>A “breathing space” from enforcement actions is automatically provided to the debtor after the opening of the restructuring procedure. There is not prescribed maximum period.</p>	<p>✓ Viable companies in financial difficulties can have access to a time-limited “breathing space” of no more than 4 months from enforcement actions, renewable until a maximum duration of 12 months under strict conditions. This will not only facilitate negotiations, but also provide further predictability and legal certainty for creditors.</p>
<p>New financing for companies in the process of early restructuring is not sufficiently and specifically protected.</p>	<p>✓ Access to fresh money is vital for the rescued company. New financing will be specifically protected increasing the chances that restructuring will be successful.</p>

(*) Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Belgium Country fact sheet

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The proposed approach is expected to:

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- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
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What is the situation currently in Belgium? ⁽¹⁾

Effectiveness of insolvency proceedings

5

Belgium ranks 5th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

BE 0.9

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

BE 89.9%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Belgium is restructuring.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Belgium ⁽²⁾	With the new rules
<p>Upon the opening of restructuring proceedings, all creditors are prevented from enforcing their claims until the end of the procedure.</p>	<p>✓ Viable companies in financial difficulties can have access to a time-limited "breathing space" of no more than 4 months from enforcement actions, renewable until a maximum duration of 12 months under strict conditions. This will not only facilitate negotiations, but also provide further predictability and legal certainty for creditors.</p>
<p>Dissenting minorities of creditors can unfairly obstruct the restructuring process (hold-out).</p>	<p>✓ Dissenting classes of creditors and shareholders can be outvoted under strict conditions in order not to jeopardise restructuring, while safeguarding their legitimate interests.</p>

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Netherlands Country fact sheet

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What is the situation currently in the Netherlands? ⁽¹⁾

Effectiveness of insolvency proceedings

6

The Netherlands ranks 6th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

NL 1.1

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

NL 89.3%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in the Netherlands is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in the Netherlands ⁽²⁾	With the new rules
Companies and entrepreneurs are prevented from controlling their own assets and the day-to-day operation of their businesses.	✓ The companies and entrepreneurs will be in control of their businesses which will avoid unnecessary costs and ensure the least disruption to a debtors' business during restructuring . An insolvency practitioner will be appointed when necessary.
The creditors are not divided in classes for the adoption of the restructuring plan. As a result, secured creditors can be outvoted and there is less legal certainty for creditors.	✓ As a minimum, there will be classes of secured and unsecured creditors in order to ensure that similar rights are treated equitably and that restructuring plans can be adopted while respecting the legitimate interests of creditors.
New financing for companies in the process of early restructuring is not sufficiently protected.	✓ Access to fresh money is vital for the rescued company. New financing will be specifically protected increasing the chances that restructuring will be successful.

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Slovenia Country fact sheet

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What is the situation currently in Slovenia? ⁽¹⁾

Effectiveness of insolvency proceedings

7

Slovenia ranks 7th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

SI 0.8

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

SI 89.2%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Slovenia is restructuring.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Slovenia ^(*)	With the new rules
There are few or inefficient early warning tools alerting debtors to the risk of insolvency and the urgency to act in order to avoid liquidation.	✓ Debtors will have access to early warning tools which can detect a deteriorating business and lead to more restructurings at an early stage.
Discharge periods can range up to 5 years, which makes the debt discharge too burdensome for many entrepreneurs.	✓ Honest insolvent entrepreneurs will have access to a full discharge of their debt after a maximum period of 3 years without prejudice of adequate safeguards put in place to prevent possible abuses.

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United Kingdom Country fact sheet

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What is the situation currently in the United Kingdom? ⁽¹⁾

Effectiveness of insolvency proceedings

8

The United Kingdom ranks 8th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

UK 1.0

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

UK 88.6%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in the United Kingdom is restructuring.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in the UK ⁽²⁾	With the new rules
Depending on the procedure, dissenting classes or secured creditors may only be affected by the adoption of the plan upon their consent.	<ul style="list-style-type: none">✓ As a minimum, there will be classes of secured and unsecured creditors in order to ensure that similar rights are treated equitably and that restructuring plans can be adopted while respecting the legitimate interests of creditors.✓ In order not to jeopardise restructuring, dissenting classes of creditors and shareholders can be outvoted under strict conditions. There are safeguards to protect everyone's legitimate interests.
New financing for companies in the process of early restructuring is not sufficiently encouraged or protected.	<ul style="list-style-type: none">✓ Access to fresh money is vital for the rescued company. New financing will be specifically protected increasing the chances that restructuring will be successful.

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Cyprus Country fact sheet

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What is the situation currently in Cyprus? ⁽¹⁾

Effectiveness of insolvency proceedings

9

Cyprus ranks 9th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)



Recovery rate for secured creditors following insolvency proceedings



► The most likely outcome for debtors in financial difficulty in Cyprus is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Cyprus ⁽²⁾	With the new rules
There are few early warning tools alerting debtors to the risk of insolvency and the urgency to act in order to avoid liquidation.	<ul style="list-style-type: none">✓ Debtors can have better access to early warning tools, which can detect a deteriorating development and lead to more restructurings at an early stage.✓ Develop a culture of preventive restructurings.
After the opening of early restructuring, the debtor has a restricted level of control of the day-to-day operation of his business. Losing control may create a barrier to start early restructuring.	<ul style="list-style-type: none">✓ In principle, the debtor can remain in control of the day-to-day operation of his business. The appointment of an insolvency practitioner should not be mandatory in all cases. This will facilitate the continuation of a debtor's business while restructuring.
New financing for companies in the process of early restructuring is not specifically and adequately protected.	<ul style="list-style-type: none">✓ Access to fresh money is vital for the rescued company. New financing can be specifically protected increasing the chances that restructuring will be successful.

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Ireland Country fact sheet

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What is the situation currently in Ireland? ⁽¹⁾

Effectiveness of insolvency proceedings

10

Ireland ranks 10th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

IE 0.4

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

IE 87.7%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Ireland is restructuring.

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What will the new rules improve?

The situation today in Ireland ⁽²⁾	With the new rules
A court has to be involved early in the process for opening the procedure and appoint an insolvency practitioner. It has to be satisfied that the company has a reasonable prospect of survival.	✓ Viable companies in financial difficulties can have easier access to a flexible preventive restructuring framework . Where necessary, the courts must be involved to safeguard the interests of third parties. The appointment of an insolvency practitioner should not always be mandatory.
All creditors are automatically involved in the restructuring process.	✓ Early restructuring will not have to involve all creditors , but can only involve part of them, e.g. financial creditors.
New financing for companies in the process of early restructuring is not sufficiently and specifically protected.	✓ Access to fresh money is vital for the rescued company. New financing can be specifically protected increasing the chances that restructuring will be successful.

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Spain Country fact sheet

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What is the situation currently in Spain? ⁽¹⁾

Effectiveness of insolvency proceedings

11

Spain ranks 11th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)



Recovery rate for secured creditors following insolvency proceedings



► The most likely outcome for debtors in financial difficulty in Spain is restructuring.

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What will the new rules improve?

The situation today in Spain ⁽²⁾	With the new rules
There are few or inefficient early warning tools alerting debtors to the risk of insolvency and the urgency to act in order to avoid liquidation.	✓ Debtors will have access to early warning tools which can detect a deteriorating business and lead to more restructurings at an early stage.
There is room to improve the length of insolvency proceedings in general.	✓ Specialised training of judges and practitioners as well as the use of electronic means of communication will improve the efficiency of insolvency procedures and reduce their cost and length .
The discharge period is 5 years and depends on the payment of an abstract 25% of the debt.	✓ Honest insolvent entrepreneurs will have access to a full discharge of their debt after a maximum period of 3 years and repayment of an amount of debts adapted to each entrepreneur, without prejudice of adequate safeguards put in place to prevent possible abuses.

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Sweden Country fact sheet

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The proposed approach is expected to:

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What is the situation currently in Sweden? ⁽¹⁾

Effectiveness of insolvency proceedings

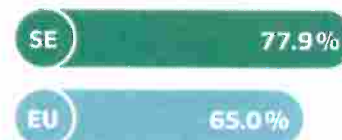
12

Sweden ranks 12th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)



Recovery rate for secured creditors following insolvency proceedings



► The most likely outcome for debtors in financial difficulty in Sweden is liquidation.

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What will the new rules improve?

The situation today in Sweden ^(*)	With the new rules
<p>There is room to improve the length of insolvency proceedings.</p>	<p>✓ Specialised training of judges and practitioners as well as the use of electronic means of communication will improve the efficiency of insolvency procedures and reduce their cost and length.</p>
<p>Companies are not in control of their own assets and the day-to-day operation of their businesses.</p>	<p>✓ Companies and entrepreneurs will be in control of their businesses which will avoid unnecessary costs and ensure the least disruption to a debtors' business during restructuring. An insolvency practitioner will be appointed when necessary.</p>
<p>New financing for companies in the process of early restructuring is not sufficiently encouraged or protected.</p>	<p>✓ Access to fresh money is vital for the rescued company. New financing will be specifically protected increasing the chances that restructuring will be successful.</p>
<p>Although there are no special rules for entrepreneurs, general discharge periods range up to 7 years.</p>	<p>✓ Honest insolvent entrepreneurs will have access to a full discharge of their debt after a maximum period of 3 years without prejudice of adequate safeguards put in place to prevent possible abuses.</p>

^(*) Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



Early restructuring and a second chance for entrepreneurs

November 2016

Věra Jourová
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Justice and Consumers



Austria Country Fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Austria? ⁽¹⁾

Effectiveness of insolvency proceedings

13

Austria ranks 13th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

AT 1.1

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

AT 82.8%

EU 65.0%

The most likely outcome for debtors in financial difficulty in Austria is liquidation.

(1) All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Austria (*)	With the new rules
Individual creditors can hinder early restructuring by seizing the debtor's assets, leading to lower recovery for other creditors and lowering the prospects for successful restructuring.	✓ The debtor can benefit from a time-limited "breathing space" from enforcement actions in order to facilitate negotiations and successful restructuring.
Dissenting minorities of creditors can unfairly obstruct the restructuring process.	✓ Dissenting classes of creditors and shareholders can be outvoted under strict conditions in order not to jeopardise restructuring, while safeguarding their legitimate interests.
The discharge period for honest entrepreneurs can be from 3 to 7 years. Discharge after 3 years is available only under a repayment of a certain amount of debt (settlement of 50% of claims).	✓ Honest over-indebted entrepreneurs can have access to a full discharge of their debt after a maximum period of 3 years and any repayment obligation will have to be adapted to individual circumstances. There will be adequate safeguards to prevent abuse.

(*) Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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France Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in France? ⁽¹⁾

Effectiveness of insolvency proceedings

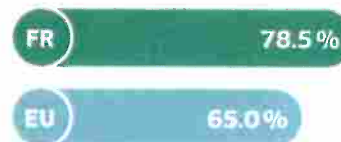
14

France ranks 14th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)



Recovery rate for secured creditors following insolvency proceedings



► The most likely outcome for debtors in financial difficulty in France is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in France ^(?)	With the new rules
<p>A court is involved early in the restructuring process and an insolvency practitioner is appointed as a supervisor or mediator.</p>	<p>✓ Companies in financial difficulties can have access to a flexible preventive restructuring framework that can reduce the length and cost of court proceedings. Where necessary, the courts will be involved to safeguard the interests of third parties. The appointment of an insolvency practitioner should not be mandatory for all the cases.</p>
<p>Upon opening restructuring proceedings, the debtor can have a long “breathing space” from enforcement actions that can be from 6 months up to 18 months.</p>	<p>✓ Viable companies in financial difficulties can have access to a time-limited “breathing space” of no more than 4 months from enforcement actions, renewable until a maximum duration of 12 months under strict conditions. This will not only facilitate negotiations, but also provide further predictability and legal certainty for creditors.</p>
<p>There is less legal certainty for creditors since they are not treated in different classes for the purposes of voting on a restructuring plan and there are limitations in valuation.</p>	<p>✓ As a minimum, there will be classes of secured and unsecured creditors in order to ensure that similar rights are treated equitably and that restructuring plans can be adopted without unfairly prejudicing the rights of affected parties. In order not to jeopardise restructuring, dissenting classes of creditors and shareholders can be outvoted under strict conditions. There are safeguards to protect everyone’s legitimate interests. Rules on valuation can ensure a better protection for creditors.</p>

^(?) Information on current framework according to the Member States’ responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Italy Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Italy? ⁽¹⁾

Effectiveness of insolvency proceedings

15

Italy ranks 15th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

IT 1.8

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

IT 63.9%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Italy is **liquidation**.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Italy ^(?)	With the new rules
<p>There is room to improve the length of insolvency proceedings.</p>	<p>✓ Specialised training and professional standards for practitioners, use of electronic means of communication and adopting measures to ensure rapid treatment of procedures will improve its efficiency, reducing their length.</p>
<p>There are few or non-efficient early warning tools alerting debtors to the risk of insolvency and the urgency to act in order to avoid liquidation.</p>	<p>✓ Debtors will have access to early warning tools which can detect a deteriorating business and lead to more restructurings at an early stage.</p> <p>✓ A culture of resorting early to preventive restructurings will develop.</p>
<p>It is possible to group creditors in separate classes but that is not a general rule. As a result, secured creditors can be outvoted and there is less legal certainty for creditors.</p>	<p>✓ As a minimum, there will be classes of secured and unsecured creditors in order to ensure that similar rights are treated equitably and that restructuring plans can be adopted without unfairly prejudicing the rights of any affected parties.</p>

^(?) information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.

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Czech Republic Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

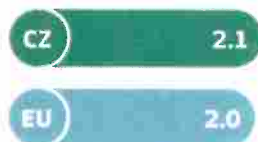
What is the situation currently in Czech Republic? ⁽¹⁾

Effectiveness of insolvency proceedings

16

Czech Republic ranks 16th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)



Recovery rate for secured creditors following insolvency proceedings



► The most likely outcome for debtors in financial difficulty in Czech Republic is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Czech Republic ⁽²⁾	With the new rules
Early restructuring is subject to strict entry criteria.	✓ All companies can have easier access to a flexible preventive restructuring framework that can reduce the length and cost of court proceedings. Where necessary, the courts must be involved to safeguard the interests of third parties.
Individual creditors can hinder a restructuring procedure by seizing the debtor's assets as soon as the debtor is in financial distress, unless the majority supports a "breathing space".	✓ The debtor can benefit at an early stage from a time-limited "breathing space" from enforcement actions in order to facilitate negotiations and successful restructuring, without the need of support of the majority of the creditors.
Discharge may be granted to entrepreneurs within a maximum period of 5 years, subject to the repayment of 33% of debt.	✓ Honest over-indebted entrepreneurs can have access to a full discharge of their debt after a maximum period of 3 years and any repayment obligation will have to be adapted on individual circumstances. There will be adequate safeguards to prevent abuse.

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.

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Poland Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Poland? ⁽¹⁾

Effectiveness of insolvency proceedings

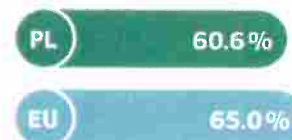
17

Poland ranks 17th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)



Recovery rate for secured creditors following insolvency proceedings



► The most likely outcome for debtors in financial difficulty in Poland is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Poland ^(*)	With the new rules
<p>Insolvency proceedings are lengthy.</p>	<p>✓ Specialised training of judges and practitioners, the use of electronic means of communication and the adoption of measures to ensure rapid treatment of procedures will improve its efficiency and reduce the length.</p>
<p>Dissenting minorities of creditors can unfairly obstruct the restructuring process (hold-out). A double majority is required for the approval of the plan and secured creditors may be exempted from the plan.</p>	<p>✓ Dissenting minority creditors and shareholders can be outvoted under strict conditions in order not to jeopardise restructuring, and rules on adoption of the plan will be simplified, while safeguarding the legitimate interests of all affected parties.</p>
<p>New financing for companies in the process of early restructuring is not sufficiently protected.</p>	<p>✓ Access to fresh money is vital for the rescued company. New financing will be specifically protected increasing the chances that restructuring will be successful.</p>
<p>The period of debt discharge can range up to 4.5 years and depends on the debtor performance and court confirmation. The debt discharge regime is too onerous for many entrepreneurs who cannot comply with the plan.</p>	<p>✓ Honest insolvent entrepreneurs will have access to a full discharge of their debt after a maximum period of 3 years without prejudice of adequate safeguards put in place to prevent possible abuses.</p>

(*) Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Slovakia Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Slovakia? ⁽¹⁾

Effectiveness of insolvency proceedings

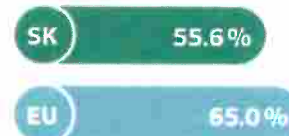
18

Slovakia ranks 18th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)



Recovery rate for secured creditors following insolvency proceedings



► The most likely outcome for debtors in financial difficulty in Slovakia is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Slovakia ⁽²⁾	With the new rules
Insolvency proceedings are lengthy.	<ul style="list-style-type: none"> ✓ Specialised training of judges and practitioners, the use of electronic means of communication and the adoption of measures to ensure rapid treatment of procedures will improve its efficiency and reduce the length.
Dissenting classes of creditors can unfairly obstruct the restructuring process (hold-out).	<ul style="list-style-type: none"> ✓ In order not to jeopardise restructuring, dissenting classes of creditors and shareholders can be outvoted under strict conditions. There are safeguards to protect everyone's legitimate interests. ✓ The new framework will facilitate the voting process of the adoption of the plan.
Although access to fresh money is vital for the rescued company, new financing for companies in the process of early restructuring is not sufficiently protected.	<ul style="list-style-type: none"> ✓ New financing will be specifically protected increasing the chances that restructuring will be successful.
Access to early restructuring proceedings is subject to strict conditions, leading companies into formal insolvency proceedings.	<ul style="list-style-type: none"> ✓ Viable enterprises in financial difficulties will have access to restructuring tools at an early stage.

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.

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Estonia Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Estonia? ⁽¹⁾

Effectiveness of insolvency proceedings

19

Estonia ranks 19th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

EE 3.0

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

EE 40.3%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Estonia is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Estonia ⁽²⁾	With the new rules
<p>Insolvency proceedings are in general very long and there is room to improve their efficiency.</p>	<p>✓ The rapid treatment of procedures, the specialisation of judges and rules on increasing professionalism of the practitioners can improve the efficiency of procedures and reduce their length.</p>
<p>A “breathing space” from enforcement actions is automatically provided to the debtor after the opening of the restructuring procedure and continues until the end of the procedure.</p>	<p>✓ The debtor can have access to a time-limited “breathing space” of no more than 4 months from enforcement actions, renewable until a maximum duration of 12 months under strict conditions. This will not only facilitate negotiations, but also provide further predictability and legal certainty for creditors.</p>
<p>New financing for companies in the process of early restructuring is not sufficiently or specially protected.</p>	<p>✓ Access to fresh money is vital for the rescued company. New financing can be specifically protected increasing the chances that restructuring will be successful.</p>
<p>Discharge for entrepreneurs will usually vary from 3 to 7 years, subject to the discretion of the court and the satisfaction of the creditors’ claims to a considerable extent.</p>	<p>✓ Honest over-indebted entrepreneurs will have access to full discharge of their debt after a maximum period of 3 years and any repayment obligation will have to be adapted on individual cases. There will be adequate safeguards to prevent abuse.</p>

⁽²⁾ Information on current framework according to the Member States’ responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.

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Latvia Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Latvia? ⁽¹⁾

Effectiveness of insolvency proceedings

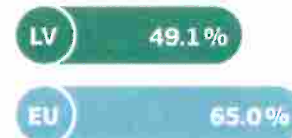
20

Latvia ranks 20th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)



Recovery rate for secured creditors following insolvency proceedings



► The most likely outcome for debtors in financial difficulty in Latvia is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Latvia ^(*)	With the new rules
There is room to improve the length of insolvency proceedings.	✓ Specialisation and training of judges, use of electronic means of communication and adoption of measures to ensure rapid treatment of procedures will improve its efficiency, reducing their length.
There are few or non-efficient early warning tools alerting debtors to the risk of insolvency and the urgency to act in order to avoid liquidation.	✓ Debtors will have access to early warning tools which can detect a deteriorating business and lead to more restructurings at an early stage. ✓ A culture of resorting early to preventive restructurings will develop.
All creditors are automatically involved in the restructuring process (collective proceedings).	✓ Early restructuring will not have to involve all creditors , but it can only involve part of them, e.g. financial creditors.

^(*) Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Bulgaria Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Bulgaria? ⁽¹⁾

Effectiveness of insolvency proceedings

21

Bulgaria ranks 21st among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

BG 3.3

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

BG 34.9%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Bulgaria is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Bulgaria ⁽²⁾	With the new rules
<p>Insolvency proceedings are in general lengthy and there is still room to improve their efficiency.</p>	<p>✓ Specialised judges as well as the use of electronic means of communication can improve the efficiency of insolvency procedures and reduce their cost and length.</p>
<p>There is no procedure that enables early restructuring of a business in financial difficulties.</p>	<ul style="list-style-type: none"> ✓ Viable enterprises in financial difficulties can have access to early restructuring in order to prevent their insolvency. ✓ A debtor will remain in principle in control of his business and an insolvency practitioner will be appointed in certain cases. ✓ The debtor can have access to a time-limited breathing space from enforcement actions. ✓ Dissenting minorities of creditors will not unfairly obstruct the restructuring plan.
<p>There is no second chance available for honest entrepreneurs.</p>	<p>✓ Honest over-indebted entrepreneurs can have access to a full discharge of their debt after a maximum period of 3 years. There will be adequate safeguards to prevent abuse.</p>

⁽²⁾ information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.

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Romania Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Romania? ⁽¹⁾

Effectiveness of insolvency proceedings

22

Romania ranks 22nd among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

RO 3.3

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

RO 34.4%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Romania is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Romania (*)	With the new rules
Insolvency proceedings are lengthy.	<ul style="list-style-type: none"> ✓ Training of judges and practitioners, the use of electronic means of communication and the adoption of measures to ensure rapid treatment of procedures will improve its efficiency and reduce the length.
There are few or non-efficient early warning tools alerting debtors to the risk of insolvency and the urgency to act in order to avoid liquidation.	<ul style="list-style-type: none"> ✓ Debtors will have access to early warning tools which can detect a deteriorating business and lead to more restructurings at an early stage. ✓ A culture of resorting early to preventive restructurings will develop.
A “breathing space” from enforcement of actions may be provided to the debtor, but it is too long (up to 3 years).	<ul style="list-style-type: none"> ✓ Viable companies in financial difficulties can have access to a time-limited “breathing space” from enforcement actions of no more than 4 months, renewable until a maximum duration of 12 months under strict conditions. This will not only facilitate negotiations and reduce the length of procedures, but also provide further predictability and legal certainty for creditors.
Discharge periods can range up to 5 years, depending on the procedure and the debtor.	<ul style="list-style-type: none"> ✓ Honest insolvent entrepreneurs will have access to a full discharge of their debt after a maximum period of 3 years without prejudice of adequate safeguards put in place to prevent possible abuses.

(*) Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Justice and Consumers



Greece Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Greece? ⁽¹⁾

Effectiveness of insolvency proceedings

23

Greece ranks 23th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

EL 3.5

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

EL 35.6%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Greece is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Greece ⁽²⁾	With the new rules
Insolvency proceedings are in general very long and there is still room to improve their efficiency.	✓ Specialised practitioners and judges as well as the use of electronic means of communication will in general improve the efficiency of insolvency procedures and reduce their cost and length.
Creditors with different interests are not divided in separate classes.	✓ As a minimum, there will be classes of secured and unsecured creditors in order to ensure that creditors with similar rights are treated equitably and that restructuring plans can be adopted without unfairly prejudicing the rights of affected parties. Rules on enterprise valuation can ensure fair protection for dissenting parties. These can provide more predictability for creditors.
Restructuring efforts can be jeopardised, because dissenting minorities of creditors can unfairly obstruct the restructuring process (e.g. requirement of a certain percentage of secured creditors to agree on the plan).	✓ Dissenting classes of creditors and shareholders can be outvoted under strict conditions in order not to jeopardise restructuring, while safeguarding their legitimate interests (cross-class cram-down).

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



European Commission

Early restructuring and a second chance for entrepreneurs

November 2016

Věra Jourová
Commissioner for Justice,
Consumers and Gender Equality



Directorate-General for
Justice and Consumers



Croatia Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

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The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
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- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Croatia? ⁽¹⁾

Effectiveness of insolvency proceedings

24

Croatia ranks 24th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

HR

3.1

EU

2.0

Recovery rate for secured creditors following insolvency proceedings

HR

33.7%

EU

65.0%

► The most likely outcome for debtors in financial difficulty in Croatia is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Croatia ^(*)	With the new rules
<p>There are few early warning tools alerting debtors to the risk of insolvency and the urgency to act in order to avoid liquidation.</p>	<ul style="list-style-type: none"> ✓ Debtors can have better access to early warning tools, which can detect a deteriorating development and lead to more restructurings at an early stage. ✓ Develop a culture of preventive restructurings.
<p>Insolvency proceedings are in general very long and there is still room to improve their efficiency.</p>	<ul style="list-style-type: none"> ✓ Rapid treatment of procedures, use of electronic means of communication and rules on remuneration and supervision of insolvency practitioners will improve the efficiency of procedures and reduce their length.
<p>Early restructuring proceedings require full court involvement, from formally opening the procedure - including the appointment of an insolvency practitioner and voting on a plan - to the confirmation of the plan by the court.</p>	<ul style="list-style-type: none"> ✓ Flexible preventive restructuring frameworks can reduce the length and cost of court proceedings. Certain steps of the procedure should take place out of court. Where necessary, the courts must be involved to safeguard the interests of third parties.
<p>Dissenting minorities of creditors can unfairly obstruct the restructuring process.</p>	<ul style="list-style-type: none"> ✓ Dissenting classes of creditors and shareholders can be outvoted under strict conditions in order not to jeopardise restructuring, while safeguarding their legitimate interests. Secured creditors will also be covered by the restructuring plan.

^(*) Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Hungary Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Hungary? ⁽¹⁾

Effectiveness of insolvency proceedings

25 Hungary ranks 25th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)



Recovery rate for secured creditors following insolvency proceedings



► The most likely outcome for debtors in financial difficulty in Hungary is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Hungary ⁽²⁾	With the new rules
<p>There are certain formal requirements that may deter debtors from early access to restructuring.</p>	<p>✓ Viable companies in financial difficulties can have easier access to flexible restructuring frameworks that can reduce the length and cost of court proceedings. Where necessary, the courts must be involved to safeguard the interests of third parties. The appointment of an insolvency practitioner should not always be mandatory.</p>
<p>Dissenting minorities of creditors that do not have a legitimate interest (out of the money) can unfairly obstruct the restructuring process.</p>	<p>✓ Dissenting classes of creditors and shareholders can be outvoted under strict conditions in order not to jeopardise restructuring (cross-class cram-down), while safeguarding their legitimate interests. Rules on valuation can ensure fair protection for dissenting parties.</p>
<p>New financing for companies in the process of early restructuring is not sufficiently and specifically protected.</p>	<p>✓ Access to fresh money is vital for the rescued company. New financing can be specifically protected increasing the chances that restructuring will be successful.</p>
<p>Discharge periods can be up to 5 years and in exceptional cases up to 7 years. There is a repayment obligation of 50% of debt.</p>	<p>✓ Honest over-indebted entrepreneurs will have access to a full discharge of their debt after a maximum period of 3 years and any repayment obligation will have to be adapted to individual circumstances. There will be adequate safeguards to prevent abuse.</p>

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Lithuania Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Lithuania? ⁽¹⁾

Effectiveness of insolvency proceedings

26

Lithuania ranks 26th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)

LT 2.3

EU 2.0

Recovery rate for secured creditors following insolvency proceedings

LT 45.0%

EU 65.0%

► The most likely outcome for debtors in financial difficulty in Lithuania is **liquidation**.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Lithuania ⁽²⁾	With the new rules
<p>Insolvency proceedings are lengthy.</p>	<p>✓ Specialisation and training of judges and practitioners, the use of electronic means of communication and adoption of measures to ensure rapid treatment of procedures will improve its efficiency, reducing their length.</p>
<p>There are few or non-efficient early warning tools alerting debtors to the risk of insolvency and the urgency to act in order to avoid liquidation.</p>	<p>✓ Debtors will have access to early warning tools which can detect a deteriorating business and lead to more restructurings at an early stage.</p> <p>✓ A culture of resorting early to preventive restructurings will develop</p>
<p>The creditors are not divided in classes for the adoption of the restructuring plan. As a result, secured creditors can be outvoted and there is less legal certainty for creditors.</p>	<p>✓ As a minimum, there will be classes of secured and unsecured creditors in order to ensure that similar rights are treated equitably and that restructuring plans can be adopted while respecting the legitimate interests of creditors.</p>
<p>Although access to fresh money is vital for the rescued company, new financing for companies in the process of early restructuring is not sufficiently protected.</p>	<p>✓ New financing will be specifically protected increasing the chances that restructuring will be successful.</p>

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Luxembourg Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

A well-functioning insolvency framework is essential to support growth and business creation. That is why the European Commission is putting forward modern and streamlined insolvency rules that will facilitate restructuring, give businesses a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures.

The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Luxembourg? ⁽¹⁾

Effectiveness of insolvency proceedings

27 Luxembourg ranks 27th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)



Recovery rate for secured creditors following insolvency proceedings



► The most likely outcome for debtors in financial difficulty in Luxembourg is liquidation.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*. <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Luxembourg ⁽²⁾	With the new rules
There is room to improve the length of insolvency proceedings.	✓ Specialisation and training of judges and practitioners, the use of electronic means of communication and the adoption of measures to ensure expeditious treatment of procedures will improve its efficiency, reducing their length.
A “breathing space” from enforcement actions is automatically provided to the debtor until the end of the procedure.	✓ Viable companies in financial difficulties can have access to a time-limited “breathing space” from enforcement actions of no more than 4 months, renewable until a maximum duration of 12 months under strict conditions. This will not only facilitate negotiations, but also provide further predictability and legal certainty for creditors.
The creditors are not divided in classes for adopting the restructuring plan. As a result, secured creditors can be outvoted by unsecured creditors and there is less legal certainty for creditors.	✓ As a minimum, there will be classes of secured and unsecured creditors in order to ensure that similar rights are treated equitably and that restructuring plans can be adopted while respecting the legitimate interests of creditors.
New financing for companies in the process of early restructuring is not sufficiently encouraged or protected.	✓ Access to fresh money is vital for the rescued company. New financing will be specifically protected increasing the chances that restructuring will be successful.
The discharge period is long (7 years), which makes the debt discharge too burdensome for many entrepreneurs.	✓ Honest insolvent entrepreneurs will have access to a full discharge of their debt after a maximum period of 3 years , without prejudice of adequate safeguards put in place to prevent possible abuses.

⁽²⁾ Information on current framework according to the Member States' responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.



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Malta Country fact sheet

Every year in the EU, 200 000 firms go bankrupt, resulting in over 1.7 million people losing their jobs.

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The proposed approach is expected to:

- ✓ Cut down the number of jobs lost due to bankruptcy;
- ✓ Bring more legal certainty for cross-border investors;
- ✓ Turn bad debt into performing credit to facilitate lending;
- ✓ Allow entrepreneurs to restart business activities, to keep innovation going and create an additional three million jobs across the EU.

What is the situation currently in Malta? ⁽¹⁾

Effectiveness of insolvency proceedings

28 Malta ranks 28th among EU Member States when it comes to the effectiveness of its insolvency proceedings.

Average length of insolvency proceedings (years)



Recovery rate for secured creditors following insolvency proceedings



► The most likely outcome for debtors in financial difficulty in Malta is **liquidation**.

⁽¹⁾ All figures are according to the World Bank report, *Doing Business 2017: Equal Opportunity for All*: <http://www.doingbusiness.org/%7E/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf>.

What will the new rules improve?

The situation today in Malta ⁽²⁾	With the new rules
<p>In restructuring proceedings, companies and entrepreneurs are prevented from controlling their own assets and the day-to-day operation of their businesses.</p>	<p>✓ The companies and entrepreneurs will be in control of their businesses which will avoid unnecessary costs and better ensure the continuation of the business. An insolvency practitioner will be appointed when necessary.</p>
<p>Access to restructuring procedures is too late, leading companies into formal insolvency proceedings.</p>	<p>✓ Viable enterprises in financial difficulties will have access to restructuring tools at an early stage where their chances of survival are higher.</p>
<p>A “breathing space” from enforcement of actions is automatically provided to the debtor, but it is too long (12 months with two possible extensions of 2 months).</p>	<p>✓ Viable companies in financial difficulties can have access to a time-limited “breathing space” from enforcement actions of no more than 4 months, renewable until a maximum duration of 12 months under strict conditions. This will not only facilitate negotiations and reduce the length of procedures, but also provide further predictability and legal certainty for creditors.</p>
<p>New financing for companies in the process of early restructuring is not sufficiently encouraged or protected.</p>	<p>✓ Access to fresh money is vital for the rescued company. New financing will be specifically protected increasing the chances that restructuring will be successful.</p>
<p>The framework of debt discharge does not provide for a time limit, thus lacking legal certainty.</p>	<p>✓ Honest insolvent entrepreneurs will have access to a full discharge of their debt after a maximum period of 3 years, without prejudice to adequate safeguards put in place to prevent possible abuses.</p>

⁽²⁾ Information on current framework according to the Member States’ responses on the implementation of the 2014 Commission Recommendation, an INSOL Europe Study of January 2014 and a comparative legal study carried out by the University of Leeds of January 2016.