

Business Reorganisation Assessment

📍 Latvia



European Bank
for Reconstruction and Development



Special thanks to:

Ministry of Justice of Latvia

PWC

Sorainen

General Information

Macro Data

1.907	3.9%	US\$ 19,820	€ Euro – EUR	20%	2.1%	7.2%
Population (million) ¹	GDP growth rate ¹	GDP per capita ¹	Currency	Corporate tax rate ²	Inflation rate ¹	Unemployment rate ¹

Insolvency Legislation

Insolvency proceedings of legal entities and natural persons (including entrepreneurs) in Latvia are governed by the **Insolvency Law** (the Insolvency Law), as amended including on 15 June 2020. Other laws also have an impact on formal insolvency and restructuring proceedings. The Civil Law, the Commercial Law, the Criminal Law, the Law on Taxes and Duties, the Land Register Law and the Civil Procedure Law all affect some aspect of the insolvency and restructuring proceedings. Procedural aspects related to the hearing of insolvency cases by courts are governed by the Civil Procedure Law.

A number of secondary legal acts in the form of Cabinet of Ministers regulations govern the technical aspects of insolvency proceedings, e.g.: Regulation No. 346 regulates the information insolvency practitioners must provide for in their activity reports and the procedure for preparing the activity reports; Cabinet of Ministers Regulation No. 246 regulates record keeping; Regulations Nos. 837, 288, 233, 169 and 1005 concern different requirements which apply to insolvency practitioners, including their certification and appointment process, education, disciplinary matters and insurance; Regulation No. 761 regulates

the Electronic Insolvency Accounting System; and Regulations Nos. 88 and 89 regulate the payment and repayment procedure concerning insolvency proceeding deposits.

Directive (EU) 2019/1023 (the Restructuring Directive) 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 has not yet been implemented, but a legislative proposal is expected by January 2022 (by way of amendments to the Insolvency Law).

¹IMF- Source as of August 2021: www.imf.org/en/Countries/LVA

²PWC – Source as of August 2021: www.taxsummaries.pwc.com/latvia/corporate/taxes-on-corporate-income



Insolvency Data

Information on all insolvency proceedings including legal protection (reorganisation) proceedings with respect to legal entities and natural persons can be found in the **Insolvency Register** which is part of the Register of Enterprises of the Republic of Latvia. The Insolvency Law contains detailed provisions on the Insolvency Register, the Electronic Insolvency Accounting System (a restricted access state information system connected to the Court Information System used by court administrative staff and the Insolvency Control Service – see below) and information to be published on the website of the Insolvency Control Service.

The Insolvency Register is accessible to everyone free of charge and is available in both English and Latvian. It is searchable by the registration number or personal ID number of the debtor, the name of the debtor, the period of initiation of proceedings, the form of legal proceedings (i.e. which procedure) and the nature of the proceedings (i.e. if these are national or cross-border). The Latvian language entries can be relied on as a matter of public record. The Insolvency Register also contains a section on insolvency practitioners, including names, contact details and the date on which the practitioner was issued with a certificate or authorisation to act. The Insolvency Register can be accessed **here**. It is also available in English **here**.

A summary of information on insolvency proceedings in recent years prepared by Lursoft is contained below.³ This data is extracted from the Insolvency Register, which is the official source of data on insolvency proceedings and is publicly reliable. For official data, refer to the Insolvency Register **here**.

Year	Legal protection (reorganisation) proceedings (LPPs) ⁴	Extrajudicial legal protection (reorganisation) proceedings (ELPPs) ⁵	Insolvent liquidation proceedings (of legal persons) ⁶
2018	151	3	590
2019	128	5	566
2020	109	1	374
2021 (as of 6 August)	54	3	134

Company Information

In Latvia the company law framework including the incorporation and organisation of legal entities is regulated by the **Commercial Law**. The Register of Enterprises of the Republic of Latvia registers companies, sole traders, branches and representative offices and changes in their corporate documents, and carries out other monitoring activities provided for by legislation. The Register provides access to basic data on all registered entities and the fields of activity of associations (including foundations and trade unions) in machine-readable format (CSV files), and user-friendly format (XLSX files) on its website. It publishes **statistics** on companies and certain **specialised information** with respect to matters such as current and historical information on legal entity officers, shareholders, beneficial owners, interests in other companies, collateral, commercial pledges and insolvency. With respect to a natural person, it is possible to obtain information on registered matrimonial property agreements, membership in companies, etc. Data is updated every 24 hours.

Insolvency Courts, Regulatory Authorities and Practitioners

Insolvency proceedings fall within the competence and exclusive jurisdiction of general courts of first instance. The main regulatory body for insolvency is the Insolvency Control Service, which is supervised by the Minister of Justice. The Insolvency Control Service is responsible for official appointment of insolvency practitioners to office and investigating, supervising and, if necessary, sanctioning insolvency practitioners (known as administrators). It maintains a public register of authorised insolvency practitioners **available here**. With respect to insolvency proceedings of a legal person, an insolvency practitioner candidate is selected from a list of candidates for the position of an administrator maintained in the Electronic Insolvency Accounting System for the Insolvency Control Service, using automated selection by the Judicial Informative System. Authorised insolvency practitioners are only required to be appointed in insolvent liquidation proceedings and are not required to be appointed in legal protection (reorganisation) proceedings.

The Insolvency Control Service organises an entry examination for insolvency practitioner candidates at least once every two years. Insolvency practitioner authorisations are currently valid for two years, however there is draft legislation before parliament to extend the authorisation period to five years. The Insolvency Control Service collects data on the performance of insolvency practitioners on a quarterly basis and any violations are made public.



³ Lursoft is an IT company providing a range of commercial databases (Company Registry, Land Registry, the Register of Commercial Pledges etc.): <https://www.lursoft.lv/en/about-lursoft>

⁴ Lursoft – www.lursoft.lv/exec?act=MNR_LSTAT&stat_id=535

⁵ Lursoft – www.lursoft.lv/exec?act=MNR_LSTAT&stat_id=555

⁶ Lursoft – www.lursoft.lv/exec?act=MNR_LSTAT&stat_id=530

Part B

Business Reorganisation

Are there any incentives for extrajudicial voluntary agreements (workouts)?

Yes, with respect to tax debts. The Law on Taxes and Duties provides (in Article 24) for the power of the tax authorities to agree on payment of taxes, interest and penalties in instalments or on deferral of the payment of overdue taxes of up to one or five years, depending on the circumstances. A debtor which has entered into an agreement with the State Revenue Service may petition for LPPs or ELPPs (see below).

Furthermore, ELPPs (described below) provide a mechanism to prepare and agree a workout plan with creditors before applying to court.

There are also **official guidelines on out-of-court debt restructuring**. The guidelines were approved and published on 6 August 2009 by the Ministry of Justice, in association with a number of social partner organisations, including the Latvian Commercial Bank Association and the Latvian Borrowers' Association, to encourage greater use of workouts. The guidelines were re-approved on 18 February 2018.

What is the nature and purpose of the reorganisation procedure?

In Latvia, reorganisation can be achieved through two different procedures: legal protection proceedings (Tiesiskās aizsardzības process) and extrajudicial legal protection proceedings (Ārpustiesas tiesiskās aizsardzības process). **Click here** for a high-level overview of these two procedures.

Legal protection proceedings (LPPs)

This procedure aims to restore the ability of the debtor to service its debt obligations. LPPs are commenced on an application to the court and require the debtor to be in financial difficulties or to be expected to face financial difficulties (Article 3).

Measures that can be implemented within the LPPs are set out in Articles 38 and 39 of the Insolvency Law and include debt write-off, debt-to-equity swaps and payment deferral.

Extrajudicial legal protection proceedings (ELPPs)

In this procedure the reorganisation plan is prepared and agreed with creditors in advance, before the debtor files the application for commencement of ELPPs with the court. ELPPs aim to restore the debtor's solvency (Article 53).

Who can commence the process and what entry conditions apply?

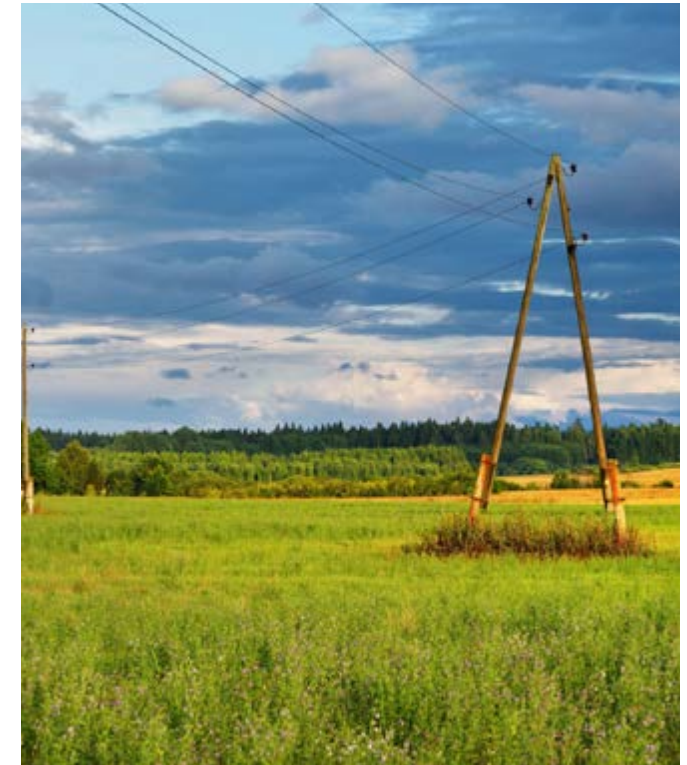
Legal protection proceedings (LPPs)

Only the debtor (a legal person, a partnership or an entrepreneur among others) can submit the application for the commencement of LPPs to the court (Article 33 (1)), which is a voluntary procedure. The Insolvency Law lays down certain restrictions regarding the application and its acceptance by the court, such as restrictions on repeated implementation of LPPs, to deter potential abuse of the procedure and the related moratorium (Articles 33 and 34). If the debtor applies for LPPs more than once in one year, a precondition of the application is the payment of a deposit.

Extrajudicial legal protection proceedings (ELPPs)

Similar to LPPs, only the debtor can commence ELPPs on a voluntary basis. The application for ELPPs may be filed with the court if the debtor has prepared a reorganisation/restructuring plan in advance and has received the support of the majority of its creditors. The required majority is set out in Article 42 and is established if creditors forming two-thirds in value in the secured creditors' class and creditors forming a simple majority in value in unsecured creditors' class have approved the plan. The plan also needs to be supported by the supervisor of the procedure (Article 53).

The Insolvency Law does not set out any specific requirements regarding the state of insolvency or pre-insolvency for either of the ELPPs/LPPs procedures to be commenced. The criteria contained in the law are mainly of a procedural nature.



References to Articles are to Articles of the Insolvency Law, unless specified otherwise. For an explanation of technical terms, please see the **Glossary of the Main Assessment Report**

Is there any court involvement?

Yes, both procedures are court-supervised. However, the court's involvement is more limited under ELPPs since the debtor only applies to court once it has prepared the plan and has obtained the required support of its creditors and of the supervisor.

Are there any hybrid reorganisation procedures?

Yes, the ELPPs procedure is hybrid, as the plan is drafted and voted before filing for the formal reorganisation procedure.

Does the debtor remain in possession of and continue to manage its business?

Yes, during LPPs and ELPPs, the debtor remains in possession and can carry on its business activities. A supervisor is appointed by the court; however, the primary role of the supervisor is to oversee implementation of the creditor- and court-approved LPPs/ELPPs plan (Article 50).

Is there a need to appoint an insolvency practitioner?

No, there is no need to appoint an authorised insolvency practitioner. However LPPs are supervised by a natural person who has the right to reside and be employed in Latvia (Article 12). The Insolvency Law sets out a list of grounds for ineligibility, such as conviction of an intentional criminal offence or being subject to natural person insolvency within five years prior to the appointment.

The supervisor is proposed to the court by the majority of creditors in agreement with the person who will act as supervisor and the debtor (Article 42) and then appointed by the court. The Insolvency Law does not contain much detail on the duties of the supervisor during LPPs, other the preparation of an opinion for the court regarding the LPPs plan and whether it will reach the objective of the LPPs (Article 43). The supervisor is primarily responsible for overseeing the implementation of the creditor and court-approved plan (Article 50).

Extrajudicial legal protection proceedings (ELPPs)

In ELPPs, a supervisor is also appointed proposed based on an agreement between such person, the debtor and the majority of creditors (Article 42) and is then approved by the court (Article 54). The supervisor has the same role in ELPPs as in LPPs.

Is there any applicable stay or moratorium?

Legal protection proceedings (LPPs)

Yes, a moratorium automatically arises once the court decides to initiate LPPs (Article 37). The moratorium applies to both secured and unsecured creditors' claims. A secured creditor to whom the moratorium would cause significant harm (e.g., a threat of destruction or significant reduction in value of the pledged property) may request to be allowed to sell the pledged property (Articles 37 (2) and Article 45). The moratorium lasts two months, during which time the debtor has to draft a reorganisation plan. It may be extended by another month if the debtor obtains the consent of the majority of creditors (Article 40 (2) of the Insolvency Law). If the court approves the restructuring plan, the moratorium is extended for the duration of implementation of the LPPs plan, i.e. a further two years, subject to the possibility of a two-year extension (Article 48).

Extrajudicial legal protection proceedings (ELPPs)

There is no automatic stay on enforcement actions in ELPPs during the negotiations and coordination of the plan with the creditors. However, a moratorium with equivalent protections to the moratorium in LPPs arises once the court approves the restructuring plan in the ELPPs (Article 55).

Is there any protection for essential contracts and to prevent termination of contracts by third parties?

No, there are no protections to prevent the termination of contracts by third parties due to the debtor's entry into LPPs or ELPPs and no provisions that protect any essential contracts that are required for the day-to-day operations of the debtor's business.





Is new financing protected by law?

Yes, should either LPPs or ELPPs be terminated, and an insolvent liquidation proceeding commenced, claims against the debtor arising from the funds allocated for the implementation of the plan will be considered to be expenses of the insolvency proceedings and will be paid in priority over unsecured creditors' claims (but not secured creditors' claims) (Article 40 (5)).

Does the law recognise separate classes of creditors for voting purposes?

Yes, in both LPPs and ELPPs, the following two classes of creditors vote separately on the plan: secured creditors in the amount of the secured part of their claims; and unsecured creditors and secured creditors in the amount of their unsecured part of their claims (Articles 42 and 53).

What are the majorities required to approve a reorganisation plan?

The required majority for the approval of the reorganisation plan in both ELPPs and LPPs is a two-thirds majority in value in the secured creditors' class and a simple majority in value in the unsecured creditors' class (Articles 42 (3) and 53).

After the voting by creditors, the court has to confirm the plan, which must meet a number of requirements (Article 40 (3)). With regard to non-consenting creditors, the plan must ensure that such creditors receive at least as much as they would have received in insolvency proceedings (liquidation) (Article 40 (3)).

Who does the reorganisation plan bind?

The confirmed reorganisation plan in both LPPs and ELPPs is mandatory and binds all creditors, including those which have not accepted the plan (Articles 45 (1) and 55).

What is the timeframe for the reorganisation procedure and any moratorium?

Legal protection proceedings (LPPs)

Following opening of LPPs, the debtor has two months to draft a reorganisation plan supported by a moratorium. It may be extended by one month if the debtor obtains the consent of the majority of its creditors (Article 40 (2)).

The moratorium comes into effect from the commencement of proceedings by the court until the earlier of the termination of the proceedings by the court and the end of the implementation period of the plan (Articles 37 and 45).

The timeframe for implementation of the LPPs restructuring plan is two years as from the date of approval, with the possibility of an extension by a further two years if the majority of creditors agrees (Articles 42 and 48). A court may terminate an LPPs plan which is already in the implementation phase and automatically declare insolvent liquidation proceedings of a legal person if: a debtor has not performed the activities specified in the Insolvency Law or has provided false information; the debtor has not implemented the plan of measures for more than 30 days and has not submitted the amendments to this plan to the court; or the debtor violates any restrictions on actions specified in the Insolvency Law (Article 57 (1)).

The court will terminate the LPPs if the debtor has initiated LPPs twice within a year but implementation of LPPs has not been declared within such year. This leads to the insolvent liquidation of the debtor (Article 51 (2)).

Extrajudicial legal protection proceedings (ELPPs)

The timeframe for ELPPs before the court is shorter than for LPPs since the debtor is required to have a majority-creditor-approved restructuring plan in place and an opinion from a supervisor as to the feasibility of such plan before it can apply to court to open the formal procedure (Article 53).

The moratorium comes into effect from approval of the plan by the court until the earlier of termination of the proceedings by the court and end of the implementation period of the plan (Article 55).

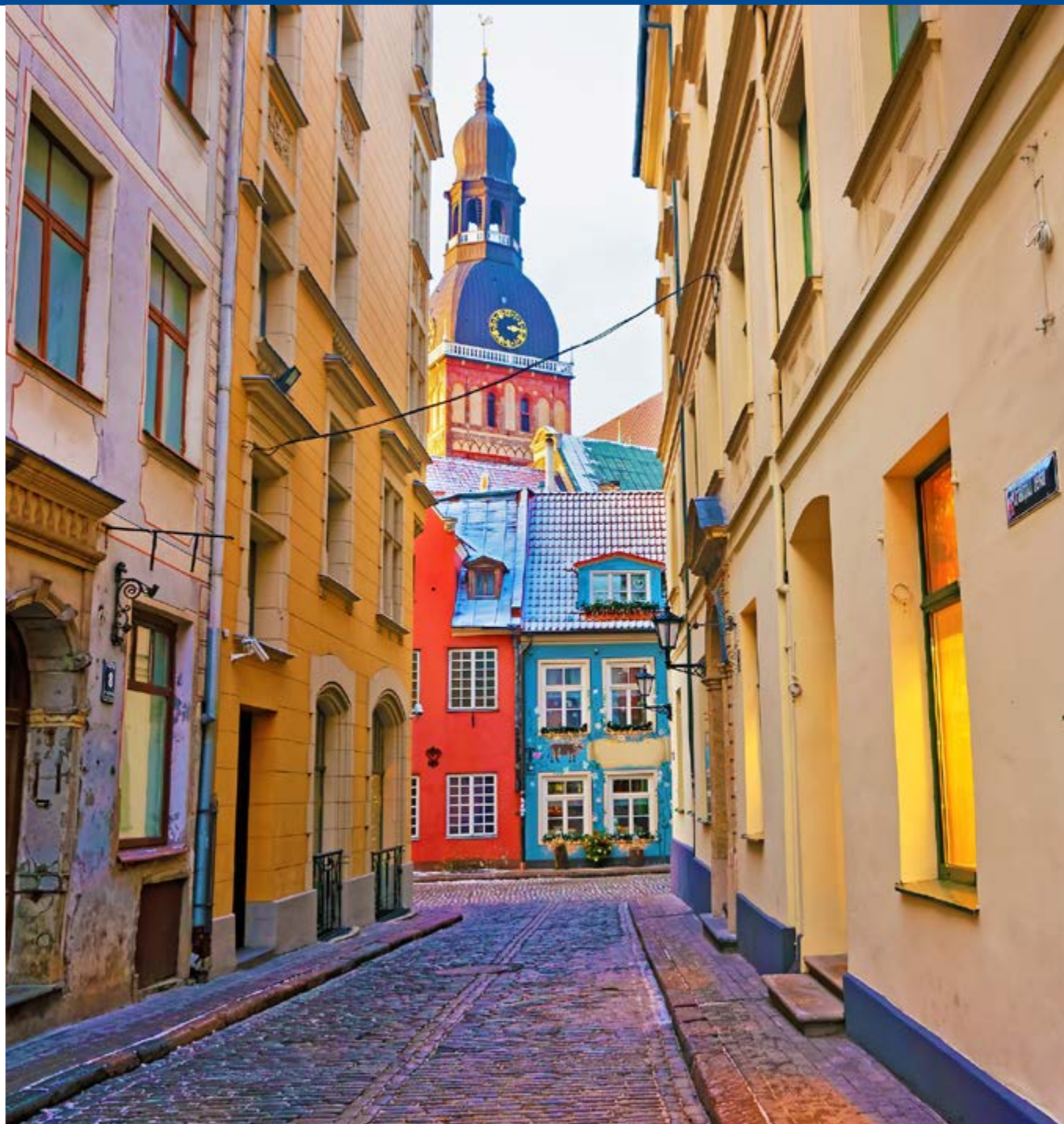
The same maximum time period for implementation of the ELPPs plan applies as for LPPs, i.e. two years extendable by a further two years up to a maximum total of four years. The court may terminate the ELPPs plan on the same grounds described above for LPPs.

Has the UNCITRAL Model Law on Cross Border Insolvency been adopted?

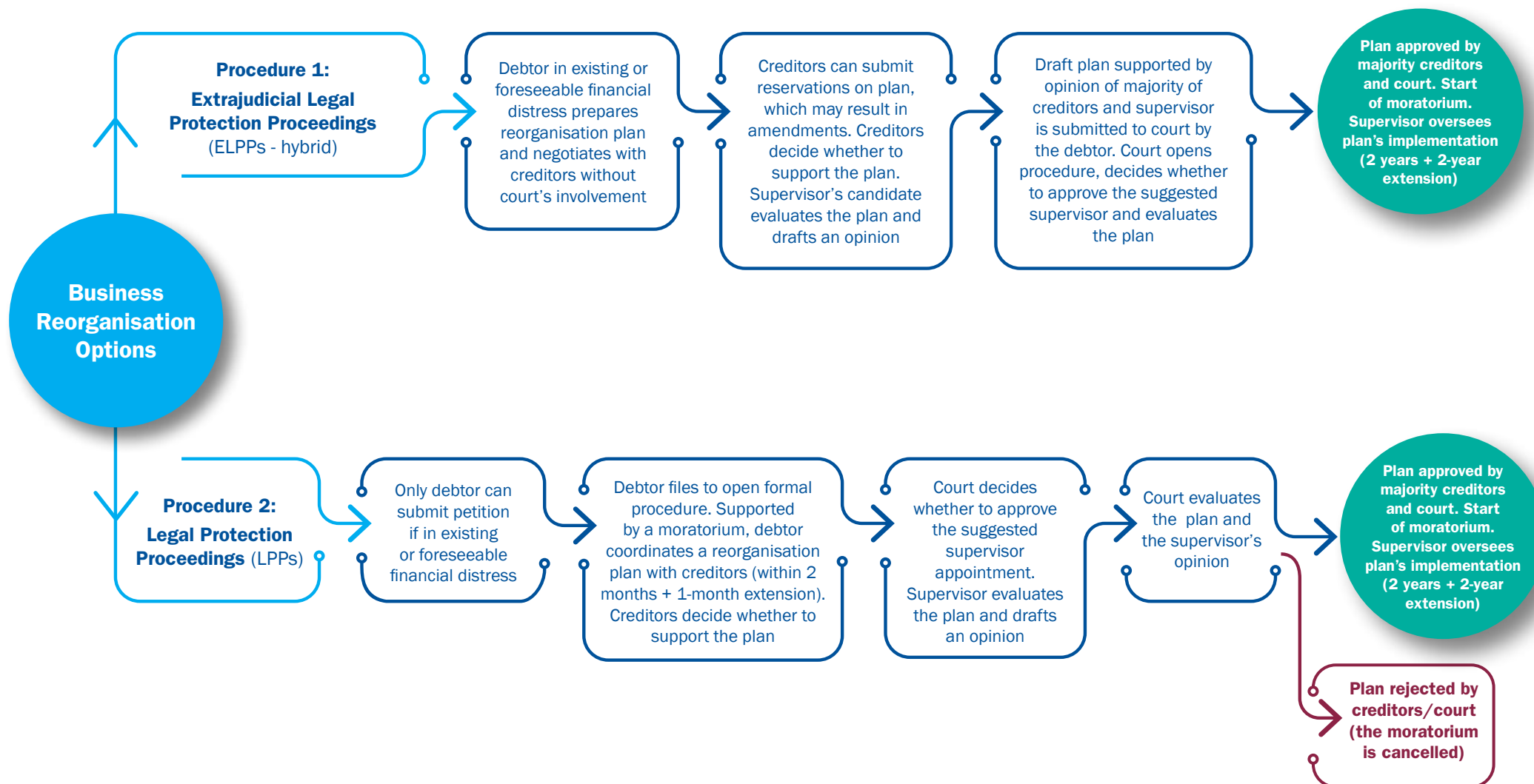
No, Latvia has not adopted the UNCITRAL Model Law. However, as a member of the European Union, Latvia is subject to **Regulation (EU) 2015/848** on insolvency proceedings, which governs the coordination of insolvency proceedings within the EU.

Special features/observations:

- In 2020, the Ministry of Justice of Latvia issued **Guidelines on how to solve business debt problems successfully**. The information in the guidelines aims to help small and medium-sized enterprises to identify and address financial difficulties in a practical and timely manner.
- The most significant reforms to the Latvian Insolvency Law as a result of transposition of the Restructuring Directive concern the ‘practitioner in the field of restructuring’ introduced by the Directive, cross-class cram down, and the possibility for the appeal of court decisions by interested persons.



Overview of Latvian Business Reorganisation Procedures*



* This provides a high-level overview of business reorganisation procedures. See the commentary in this profile and the Insolvency Law for further details, including with respect to any applicable moratoria and creditor voting thresholds. A more detailed schematic overview of both the ELPPs and LPPs procedures is available at Annex 4 of the document entitled "Analysis of Key Policy Areas of Reform in the Existing Framework Governing Debt Restructuring in Latvia" available on the Latvian government website [here](#).

Contact

Catherine Bridge Zoller

Senior Counsel

Legal Transition Team

European Bank for Reconstruction & Development

✉ LTTRestructuring@ebrd.com

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