Business Reorganisation Assessment

Poland

European Bank
for Reconstruction and Development

Special thanks to:

Allen & Overy

Baker McKenzie

Part A

General Information

Macro Data

37.958	3.5%	US$ 16,930	zł Polish złoty – PLN	19%	3.2%	4.9%
Population (million)[1]	GDP growth rate[1]	GDP per capita[1]	Currency	Corporate tax rate[2]	Inflation rate[1]	Unemployment rate[1]

Insolvency Legislation

The primary legislative texts governing insolvency proceedings in Poland, for legal entities and entrepreneurs, are the **Restructuring Law** (the Restructuring Law) adopted on 15 May 2015 and the **Bankruptcy Act** (the Insolvency Law) adopted on 28 February 2003, both as amended.

The **Act of 19 June 2020, the so-called "Shield 4.0"** (the Covid-19 Act) on interest rate subsidies for bank loans granted to provide liquidity to businesses affected by Covid-19 and on simplified proceedings for the approval of arrangement (reorganisation) proposals in connection with Covid-19 (Journal of Laws of 2020, Item 1086), is available for a limited time-period until 30 November 2021.

[1] **IMF – Source as of July 2021:** www.imf.org/en/Countries/POL

[2] **PWC – Source as of July 2021:** taxsummaries.pwc.com/poland/corporate/taxes-on-corporate-income

The **EU Directive 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 been transposed yet. The time limit for implementing the Restructuring Directive has been extended until 17 July 2022.

Relevant secondary legislation includes the **Restructuring Adviser Licence Act** of 15 June 2007 (Journal of Laws of 2007, No. 123, Item 850, as amended). This Act regulates the profession of restructuring advisers, also known as supervisors or administrators.

Insolvency Data

Court orders on insolvency (bankruptcy) declarations are announced in the **Court Gazette**, published by the Court and Economic Monitor of the Ministry of Justice.

The Ministry of Justice prepares publications and multi-year reports containing statistical information on the activities of common courts and on insolvency (bankruptcy) and restructuring proceedings conducted during a specific period. These publications and multi-year reports cover the number of conducted and concluded judicial proceedings, including insolvency and restructuring proceedings, in a given time period and are published irregularly, every couple of years. The last analysis on the activity of common courts was prepared in February 2017 for the years 2012-2016 inclusive, and the last multi-year report on bankruptcy and restructuring proceedings covers the years 2010-2018 inclusive. In 2016, 4 arrangement approval proceedings were initiated, out of which 1 was successful, while a total of 437 reorganisation proceedings were initiated, out of which 139 accelerated arrangement proceedings, 38 arrangement proceedings and 57 remedial (sanation) proceedings were successful. In 2017, a total of 708 reorganisation proceedings were initiated, out of which 224 accelerated arrangement proceedings, 54 arrangement proceedings and 95 remedial (sanation) proceedings were successful. In 2018, a total of 825 reorganisation proceedings were initiated, out of which 268 accelerated arrangement proceedings, 55 arrangement proceedings and 12 remedial (sanation) proceedings were successful. The relevant analyses and publications can be found **here** on the Statistical Guide of the Judiciary (Informator Statystyczny Wymiaru Sprawiedliwości) website.

The government is planning to introduce a system whereby court decisions in insolvency matters will be announced publicly and will be available in an electronic Central Restructuring and Bankruptcy register. A National Register of Debtors will start operations on 1 December 2021 under the **Act on the National Register of Debtors** which will enter into force on such date.

The Compagnie Française d'Assurance pour le Commerce Extérieur (Coface), a credit insurer operating globally, reported for 2020 the following number of insolvency and restructuring proceedings for Poland: 507 insolvent liquidation proceedings, 28 arrangement approval proceedings, 213 accelerated arrangement proceedings, 27 arrangement proceedings, 112 remedial proceedings and 356 simplified arrangement proceedings.

Company Information

The Polish company law framework is governed mainly by the **Code of Commercial Companies** of 15 September 2000 (Journal of Laws of 2000, No. 94, Item 1037, as amended) and the **Civil Code** of 23 April 1964 (Journal of Laws of 1964, No. 16, Item 1037, as amended).

The National Court Register was established by the **Act of 20 August 1997** on the National Court Register (Journal of Laws of 2007, No. 168, Item 1186, as amended). The National Court Register is run and managed by the competent commercial courts in Poland which are in charge of registration of legal entities including commercial companies and partnerships, as well as associations and foundations. The online system enabling public access to the National Courts Register's database is maintained and operated by the **Ministry of Justice**.

The National Court Register provides access to a vast amount of financial and corporate documentation relating to legal entities, registration of legal entities, and annual reports. It also includes information on whether an entity has been declared insolvent (bankrupt). The National Court Register is freely accessible **here**.

Insolvency Courts, Regulatory Authorities and Practitioners

Insolvency and reorganisation proceedings are overseen by district commercial courts, which act as first instance courts. There are 318 district courts in Poland, 30 of which deal with insolvency and restructuring cases. The jurisdiction of the court concerning legal entities is determined by the location of the main centre of operation of the debtor, which is usually the registered office of the company, and in relation to entrepreneurs, the principal place of economic or professional activity. After the declaration of bankruptcy or the opening of the restructuring proceedings, the court appoints a judge-commissioner from a panel of judges. The judge-commissioner handles the case on a daily basis and, in particular, oversees the work of the court supervisor or administrator. This means the judge-commissioner may appoint and change the court supervisor or administrator, establish a creditors' council and appoint its members, approve the terms of the public tenders or review the reports of the administrator or court supervisor.

The Ministry of Justice maintains a register of insolvency practitioners, who are authorised to act as: a court supervisor (nadzorca) (in one of the arrangement procedures or the simplified urgent arrangement procedure under the Covid-19 Act); an administrator (zarządca) (in a remedial procedure); and an insolvency administrator (syndyk) where insolvent liquidation (bankruptcy) proceedings are initiated. From and including 24 March 2020, in insolvency proceedings concerning large enterprises (those which employ 250 employees or whose annual net turnover is more than €50 million), the court must appoint a court supervisor or administrator who is a senior insolvency advisor (kwalifikowany doradca restrukturyzacyjny). The register of insolvency practitioners can be accessed **here**.

The function of the supervisor or administrator may be performed by an individual who has full capacity by law and who possesses a restructuring adviser licence issued under the rules and procedures set by the Restructuring Adviser Licence Act. To obtain a licence an individual must successfully complete the relevant examination. The examinations are organised by the Minister of Justice approximately twice a year.

Continue to Part B →

Part B

Business Reorganisation

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

There are no specific incentives for extrajudicial voluntary agreements. However, all the arrangement procedures, as defined below, provide to the debtor the flexibility to negotiate with creditors, with minimum court intervention.

What is the nature and purpose of the reorganisation procedure?

There are currently five different reorganisation procedures available for businesses in Poland. These include four different types of reorganisation procedures under the Restructuring Law (Article 2):

- the arrangement approval procedure (postępowanie o zatwierdzenie układu)
- the accelerated arrangement procedure (przyspieszone postępowanie układowe)
- the arrangement procedure (postępowanie układowe) (together with the arrangement approval procedure and the accelerated arrangement procedure, the arrangement procedures).
- the remedial (sanation) procedure (postępowanie sanacyjne).

There is also a fifth simplified urgent arrangement procedure under the Covid-19 Act. **Click here** for a high-level overview of these five procedures.

The purpose of the reorganisation procedures is to avoid the declaration of insolvency of the debtor by enabling it to restructure through an arrangement with creditors and, in the case of remedial proceedings, by carrying out remedial actions, while safeguarding the legitimate interests of creditors. To further facilitate the chances of a successful restructuring, the Restructuring Law has priority over the Insolvency Law (Articles 3 and 11 of the Restructuring Law).

The order of the procedures follows the "rule of gradation" in relation to the level of protection afforded the debtor from enforcement by creditors, the severity of the restrictions on the debtor's ability to manage its businessand the instruments available for restructuring. The debtor has the option to submit arrangement proposals concerning only certain obligations (i.e. affected creditors), the restructuring of which has a significant impact on the continuity of the debtor's business operations. This is known as a partial arrangement (układ częściowy).

In addition, there is currently an additional, simplified arrangement procedure (uproszczone postępowanie restrukturyzacyjne) implemented temporarily by the Covid-19 Act. This aims to provide a fast and simple procedure for businesses affected by the pandemic and to provide debtors with generally the same protections as in the remedial proceedings, but with much-reduced entry requirements, e.g. without the requirement of the court to approve the opening of the procedure. The Covid-19 simplified urgent arrangement procedure will cease to be available by the end of November 2021. However, a very similar type of procedure will become available to debtors under the modified arrangement approval proceedings that will enter into force on 1 December 2021.

In addition to the above reorganisation tools, the Insolvency Law contains a pre-packaged bankruptcy procedure introduced in 2016 as an alternative to the ordinary liquidation procedure. It is a court-sanctioned sales process that allows the debtor or any of its creditors to pre-agree the terms of sale of the debtor's enterprise or its material assets with a purchaser and apply for the court's approval of the transaction. The potential purchaser must deposit 10 per cent of the offer price when filing the pre-pack motion with the court. If granted, the court's order simultaneously declares the insolvency of the company, resulting in the directors losing control of the company, and approves the terms of the sale.

References to Articles in this part are to Articles of the Restructuring Law or the Covid-19 Act, unless specified otherwise. For an explanation of technical terms, please see the **Glossary of the Main Assessment Report**

Who can commence the process and what entry conditions apply?

Reorganisation procedures (Restructuring Law)

A debtor which is insolvent and/or at risk of insolvency may access any of the reorganisation procedures (Article 6 of the Restructuring Law). Any restructuring procedure is commenced on the debtor's application, which must consist of an application for the opening of the proceedings and an application for the approval of an arrangement. A remedial (sanation) procedure, however, may be opened upon the motion of either the debtor or its creditors (Articles 7 and 283).

The debtor may only submit arrangement proposals concerning certain obligations, the restructuring of which has a significant impact on the continued operations of the debtor's undertaking (Article 180). An arrangement approval procedure and accelerated arrangement procedure are only available if the sum of disputed claims to be included in the arrangement does not exceed 15 per cent of the total claims. An arrangement procedure is only available if the sum of the disputed claims to be included in the arrangement does exceed 15 per cent of the total claims (Article 3).

The arrangement proposals may be submitted by the debtor or by the creditors' committee, the insolvency practitioner, i.e. the court supervisor or administrator, or a creditor and/or creditors with a total of more than 30 per cent of the amount of claims, excluding the creditors referred to in Article 80 section 3 (the debtor's co-debtors sureties or guarantors, or banks issuing letters of credit), Article 109 section 1 (creditors which acquired claims by way of transfer and/or enforcement after the opening of the restructuring procedures) and Article 116 (creditors' relatives and family members, and companies of the same group or affiliated companies) of the Restructuring Law (Article 155). The arrangement proposals determine the method of restructuring of the debtor's obligations.

Covid-19 – simplified urgent arrangement procedure

The process is available to a debtor which concluded an agreement with the insolvency practitioner, also known as the supervisor, or which may announce in the Court Gazette the opening of proceedings for the approval of an arrangement conducted on the basis of the provisions of the Restructuring Law with amendments resulting from the provisions of the Covid-19 Act (Article 15 of the Covid-19 Act).

The process is not available if 15 per cent or more of all claims are disputed. In such a situation, the debtor needs to file for an arrangement procedure or remedial (sanation) procedure, which involve the court reviewing appeals against a list of claims before creditors vote on the arrangement (Article 3).

Is there any court involvement?

Reorganisation procedures (Restructuring Law)

Yes, the court plays a role in all reorganisation procedures under the Restructuring Law . Thus arrangements adopted by the creditors' assembly must be approved by the court (Article 164 of the Restructuring Law). In an accelerated arrangement procedure, an arrangement procedure or a remedial (sanation) procedure, the court is also involved from the date of the application for commencement of the proceedings and administers and supervises the proceedings (Article 283).

Covid-19 – simplified urgent arrangement procedure

Yes, the supervisor of the arrangement must notify the competent court to consider the application for approval of the arrangement within three days of its issuance (Article 15 of the Covid-19 Act).

Are there any hybrid reorganisation procedures?

The arrangement approval procedure under the Restructuring Law is to a certain extent hybrid since there is minimal court involvement. The same applies to the Covid-19 simplified urgent arrangement proceedings.

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

All reorganisation procedures are debtor-in-possession, except for the remedial (sanation) procedure, where generally an administrator is appointed to manage the debtor's business (Article 67 of the Restructuring Law). However, debtor may lose possession in some circumstances (see below).

Arrangement approval procedure

In the arrangement approval procedure, the insolvency practitioner, also known as the arrangement supervisor, is elected by the debtor and performs duties on the basis of an agreement with the debtor. The conclusion of the agreement with the insolvency practitioner does not cause the debtor to lose control of its finances or property (Article 36). However, until the judicial proceedings are over, any acts outside the scope of ordinary course of business require the permission of the insolvency practitioner (Article 224).

Accelerated arrangement procedure and arrangement procedure

After the appointment of the insolvency practitioner, also known as the court supervisor, the debtor may carry out acts within the ordinary course of business. Any acts outside the scope of ordinary course of business require the permission of the insolvency practitioner (Article 39).

The court may decide to revoke the management powers of the debtor and appoint an insolvency practitioner if: the debtor, even unintentionally, violated the law in the exercise of the administration, the result of which was to the detriment of creditors or could have been detrimental to them in the future; it is obvious that the manner of the debtor's exercise of its management powers does not evidence support for performance of the arrangement; or the debtor fails to execute the instructions of the judge-commissioner or the insolvency practitioner, in particular if by failing to submit lawful arrangement proposals within the time limit fixed by the judge-commissioner (Article 238).

Remedial (sanation) procedure

The administrator will immediately take over the administration of the remedial estate, manage it, prepare an inventory (including its estimation) and draw up and perform the restructuring plan (Article 52).

However, if personal participation of the debtor or his representatives is required for remedial proceedings to be carried out effectively and, at the same time, these persons provide evidence of proper exercise of the administration, the court may permit the debtor to administer all or part of the enterprise to the extent not exceeding the scope of the ordinary course of business (Article 288).

Covid-19 simplified urgent arrangement procedure

From the date of making the announcement of opening the procedure until the date of discontinuance or termination for approval of the arrangement, the debtor may perform actions within the ordinary course of business. The consent of the supervisor of the composition agreement is required for any acts that exceed the scope of the ordinary course of business (Article 22 of the Covid-19 Act).

Is there a need to appoint an insolvency practitioner?

Reorganisation procedures (Restructuring Law)

Yes. The reorganisation procedures are carried out with the participation of the insolvency practitioner, also referred to as either an arrangement supervisor or a court supervisor, and the administrator in a remedial (sanation) procedure (Article 23 of the Restructuring Law).

The supervisor must inform the debtor about sources of funding available to the debtor, including state aid, and also cooperate with the debtor in order to obtain the financing. If there is a need and opportunity, the administrator will take actions to obtain additional sources of financing of the debtor's activities, including public aid (Article 26).

The supervisor or administrator must prepare arrangement proposals, carry out an independent collection of votes and file an application for the approval of the arrangement (Article 210).

Covid-19 simplified urgent arrangement procedure

Yes, the provisions of the Restructuring Law apply, meaning that an insolvency practitioner should be engaged by the debtor prior to the notice given to the court for the opening of a simplified urgent arrangement procedure (Article 15 of the Covid-19 Act).

Is there any applicable stay or moratorium?

The rules regarding the stay or moratorium vary according to the reorganisation procedure and are described below.

Arrangement approval procedure

No, there is no suspension of enforcement proceedings or revocation of bank account seizures until the arrangement is approved.

As of the date on which the court's decision to approve the arrangement comes into effect, proceedings to secure property and enforcement proceedings against the debtor to satisfy the claims covered by the arrangement are discontinued by virtue of law. Nevertheless, suspended proceedings to secure property and enforcement proceedings against the debtor to satisfy claims not covered by the arrangement may be recommenced on the creditor's request, subject to the approval by the court (Article 170 of the Restructuring Law).

Accelerated arrangement procedure

Yes, enforcement proceedings concerning claims subject to the arrangement by virtue of law and initiated prior to opening the accelerated arrangement proceedings are automatically suspended as of the date of opening the proceedings. On request of the debtor and/or the court supervisor, the judge-commissioner

will suspend any enforcement proceedings, e.g. to prevent any new proceedings from being initiated (Articles 259 and 278). A stay on enforcement actions in relation to an asset secured for a debt not covered by an arrangement may be ordered for up to three months if such asset is necessary for running the company (Article 260).

Arrangement procedure

Yes, but this is not automatic. The court may, on the request of the debtor and/or the temporary insolvency practitioner (court supervisor), suspend enforcement proceedings conducted for the purpose of pursuing claims subject to the arrangement by virtue of law and revoke the seizure of any bank account if this is necessary to achieve the objectives of the arrangement proceedings (Article 268).

Remedial (sanation) procedure

Yes, enforcement proceedings initiated before the opening of remedial proceedings, with respect to the debtor's property which is part of the remedial estate, are suspended automatically by operation of law with effect from the date of the opening the proceedings. Furthermore, commencement of any new enforcement proceedings against the property of the debtor included in the remedial estate after the opening of the remedial proceedings is prohibited (Article 312).

Covid-19 simplified urgent arrangement procedure

Yes, once the official notification to the court is made, enforcement proceedings concerning secured (if applicable) and unsecured debt are stayed and the commencement of new enforcement proceedings bt is prohibited (Article 16 of the Covid 19 Act).

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

Yes, any provisions of a contract that envisage a change in and/or termination of the legal relationship to which the debtor is a party, due to: (i) the debtor filing for the opening of the proceedings; and/or (ii) opening of the proceedings, are deemed to be invalid (Articles 225 and 247 of the Restructuring Law). This applies to the bankruptcy proceedings and all restructuring proceedings, including the Covid-19 simplified urgent arrangement procedure.

Does the law protect new financing?

Reorganisation procedures (Restructuring Law)

All reorganisation procedures are subject to the same rules on protection of new financing. If an existing creditor provides new financing during the arrangement stage, but the debtor is unsuccessful and ends up in insolvent liquidation (bankruptcy) then the new financing will enjoy priority over all other claims (unsecured and preferred) but will still be subordinated to secured creditors (Article 342 of the Restructuring Law).

Creditors which provided new financing can be offered more favourable conditions (i.e. a higher repayment amount) (Article 162). New secured financing can be obtained by the debtor only if the creditors' council grants its approval for such financing or if such financing is stipulated in the arrangement agreement. The approval can only be granted if: such financing is required for the debtor to be able to service the costs of the proceedings and obligations which have been incurred after the proceedings were opened; it is guaranteed that the debtor will receive the proceeds of the financing and utilise such proceeds in line with the creditors' council approval; and the security to be established is adequate to the financing to be granted. Such financing is treated preferentially only in the case of a subsequent insolvent liquidation (bankruptcy) of the debtor (i.e. it is repaid in the first category of the repayment ranking).

Covid-19 simplified urgent arrangement procedure

New financing (and its security) benefits from additional protection with regard to potential subsequent insolvent liquidation (bankruptcy) or remedial proceedings of the debtor provided that: the arrangement supervisor consented to it; it was set out in the arrangement approval application; and the court issues a final decision on such arrangement approval.

However, this additional protection for financing to which the supervisor consented will not apply in the new arrangement approval proceedings (starting from 1 December 2021 and transposing a version of the Covid-19 Act in the Restructuring Law).

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

All procedures follow the same rules regarding classification of creditors for voting purposes. This also includes the Covid-19 simplified urgent arrangement procedure (Article 19 of the Covid-19 Act).

Creditors can be divided into separate classes to the extent that the division is fair. The law is flexible and the debtor can decide on the classes of creditors in a particular context for voting purposes. The arrangement proposals may provide for the division of creditors into groups covering specific categories of interests, in particular:

- creditors which are entitled to claims under employment contracts and which have agreed to be covered by the arrangement;
- farmers who are entitled to claims under contracts for delivery of the products from their own farm;
- creditors whose claims are secured by the debtor's property with mortgage, pledge, registered pledge, tax lien and/or maritime mortgage, as well as by the transfer to the creditor of ownership of an asset, claim and/or another right, and which have agreed to be covered by the arrangement (subject to the new provisions enabling the debtor to force such secured creditors to be covered by the arrangement, which will apply from 1 December 2021);
- creditors which are partners and/or shareholders of the debtor that is a capital company, with shares and/or stocks of the company ensuring at least five per cent of votes at the shareholders' meeting or the general meeting of shareholders.

There is no specific provision concerning unsecured creditors, which fall under a separate group from the ones mentioned above.

The lists assigning individual creditors to groups will be drawn up by the insolvency practitioner after approval of the table of claims if the division into groups has not been made in the table or the division is incompatible with the current arrangement proposals (Article 161 of the Restructuring Law).

Generally, secured creditors need to consent to their claims being covered by the arrangement (to the extent the value of those assets corresponds to the amount of those claims). From 1 December 2021, several changes to the Restructuring Law will come into force, and one of the most notable is that in all types of reorganisation proceedings, debtors will be able to compromise the claims of secured creditors as part of the arrangement, provided the arrangement proposals provide them with full repayment of their receivables, together with interest or at least the same percentage of repayment as they would receive from enforcement of their security interests.

What are the majorities required to approve a reorganisation plan?

All procedures follow the same rules regarding majority approval of the relevant arrangement. This also includes the Covid-19 simplified urgent arrangement procedure (Article 19 of the Covid-19 Act).

Creditors whose claims have been entered in the approved table of claims, and creditors which appear at the meeting of the creditors' assembly and provide the judge-commissioner with an enforcement order which proves their claims, have the right to vote. The creditors vote in accordance with the sum of claims entered in the approved table of claims and/or the enforcement order (Article 107 of the Restructuring Law).

In an accelerated arrangement procedure, arrangement procedure and remedial procedure, the resolution of the creditors' assembly to adopt the arrangement is passed if the majority of voting creditors which cast a valid vote, with a total of at least two-thirds of the sum of claims (value) owed to voting creditors, are in favour of it in each class. If no classes have been created, the arrangement is approved if the majority of voting creditors which cast a valid vote, with a total of at least two-thirds of the sum of claims owed to voting creditors, are in favour of it (Article 119).

In an arrangement approval procedure, the resolution of the creditors' assembly to adopt the arrangement is passed if the majority of creditors entitled to vote which cast a valid vote, with a total of at least two-thirds of the sum of claims (value) owed to the voting creditors, are in favour of it in each class.

However, the arrangement may be deemed adopted by the court without reaching a majority in all groups if: creditors from the dissenting groups will not be worse off than in the insolvent liquidation (bankruptcy) scenario; and creditors representing two-thirds of claims (value) owed to the creditors entitled to vote in all groups voted in favour of the arrangement (Article 217).

There is no minimum number of groups which need to vote in favour of the arrangement.

Who does the reorganisation plan bind?

An arrangement under any of the reorganisation procedures is binding on the creditors whose claims are subject to the arrangement, even if they have not been entered into the table of claims. The arrangement is not binding on creditors which have not been recognised by the debtor and which have not been invited to participate in the proceedings (Article 166).

In practice, standard reorganisation procedures do not allow the debtor to force secured creditors to be covered by the arrangement and take part in the procedure and are conducted only in relation to unsecured debt, in parallel to out-of-court restructurings of secured debt. However, secured creditors may be included in the arrangement in the restructuring proceedings if they consent to it.

This is likely to change, as from 1 December 2021 each type of arrangement procedure will provide that secured creditors can be forced into the arrangement, provided the arrangement proposals offer them full repayment of their receivables together with interest, or at least the same percentage of repayment as they would receive from enforcement of their security interests.

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

Arrangement approval procedures (Restructuring Law)

In an/the arrangement approval procedure, an arrangement date is set that should be no earlier than three months and no later than the day before the date of submitting the application for the approval of the arrangement. This means that the debtor has a maximum of three months to collect the votes and submit an application to the court for the approval of the arrangement (Article 211 of the Restructuring Law).

The court shall in principle issue a decision in relation to the approval of the arrangement within two weeks from the date of filing the application for the approval of the arrangement (Article 223).

Arrangement procedures (Restructuring Law)

The provisions of Restructuring Law do not stipulate any time limits for concluding the accelerated arrangement proceedings and arrangement proceedings. There are only statutory guidelines for the insolvency practitioner on when to take certain actions (e.g. a suggested date to prepare a list of claims and a restructuring plan, which are prerequisites for creditors to start voting on the arrangement).

Remedial (sanation) procedure (Restructuring Law)

The remedial procedure should, in principle, be concluded within 12 months from the date of commencement of the procedure until the date when the court's decision to approve or refuse to approve the arrangement becomes final (Article 321).

Covid-19 simplified urgent arrangement procedure

The proceedings for the approval of the simplified urgent arrangement will be discontinued by operation of law if no application for the approval of the arrangement has been submitted to the court within four months of the date of the announcement to the Court and Economic Monitor of the Ministry of Justice (Article 20 of the Covid-19 Act).

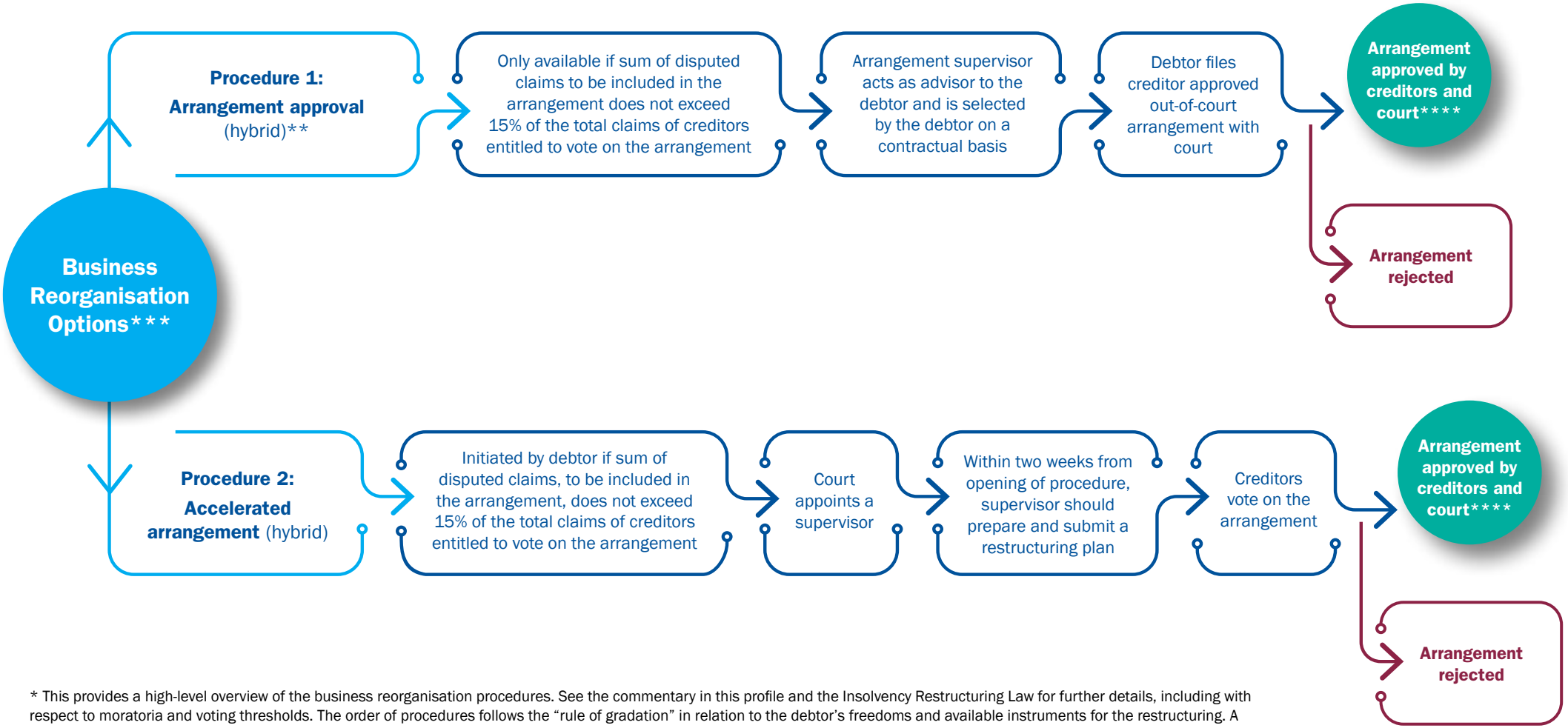
Has the UNCITRAL Model Law on Cross Border Insolvency been adopted?

Yes, in 2003 relevant provisions about cooperation with foreign judicial systems regarding insolvency were included in the Bankruptcy Law and, from 2015, also extended to the Restructuring Law. As a member of the European Union, Poland is also subject to **Regulation (EU) 2015/848** on insolvency proceedings which governs the coordination of insolvency proceedings within the EU.

Special features/observations:

- Poland is one of the economies where we invest which has a large number of different reorganisation procedures and a new temporary Covid-19 simplified procedure. This temporary procedure is expected to be adopted into the legal framework on a permanent basis from December 2021 when the Covid-19 simplified procedure expires.

Overview of Polish Business Reorganisation Procedures*

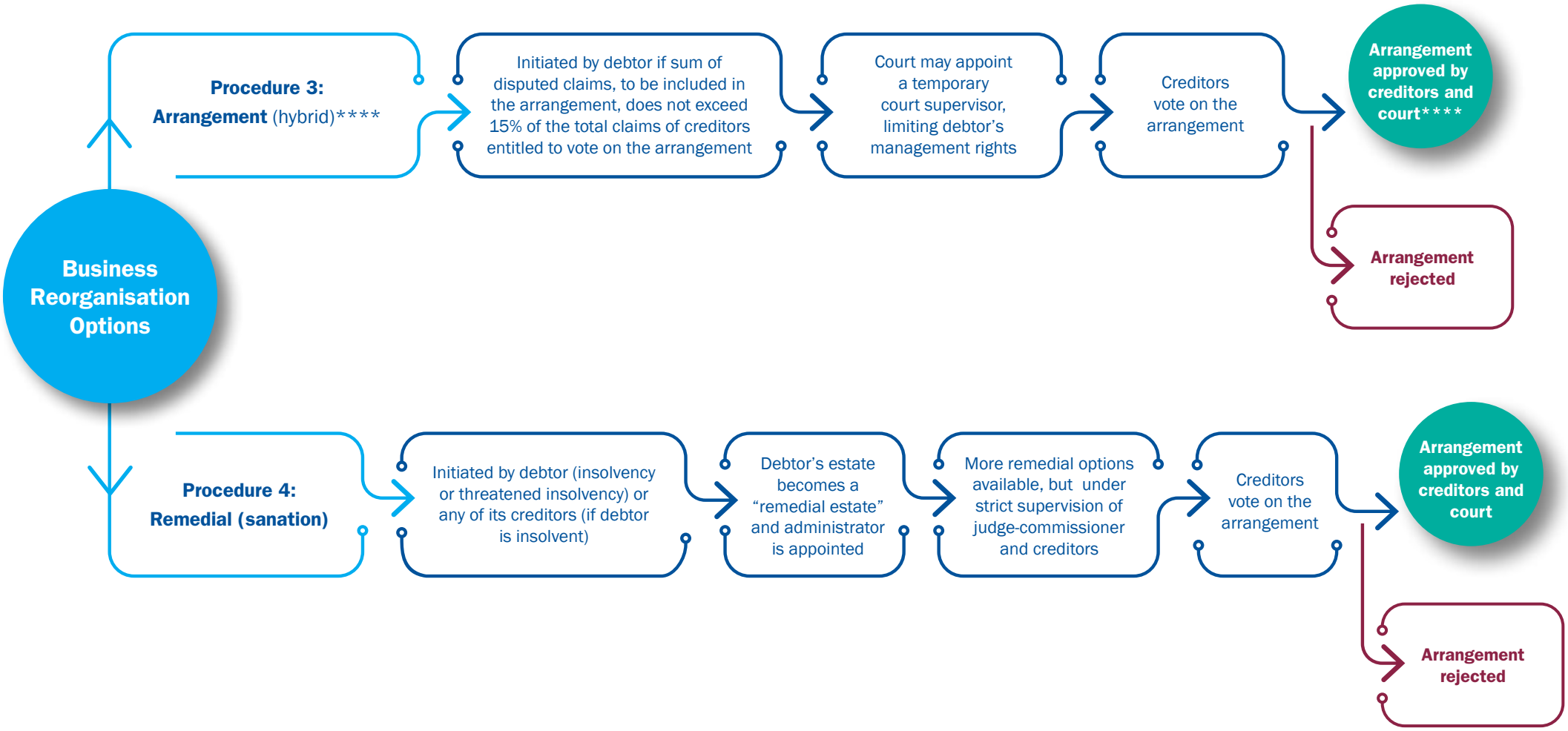


* This provides a high-level overview of the business reorganisation procedures. See the commentary in this profile and the Insolvency Restructuring Law for further details, including with respect to moratoria and voting thresholds. The order of procedures follows the "rule of gradation" in relation to the debtor's freedoms and available instruments for the restructuring. A temporary simplified reorganisation procedure is available until 30 November 2021. This procedure is not reflected in the flowchart but is described in detail in the profile.

**No stay of enforcement is available.

***According to Article 180 of the Restructuring Law, the arrangements allow the debtor to select affected creditors, avoiding the need to agree with all creditors, subject to certain conditions being met.

****Note that the approval of the arrangement does not mean the procedure is over. Once the arrangement was approved, the debtor is in principle free to manage its assets but has to perform (under supervision of the arrangement supervisor and the restructuring court) its commitments set out in the approved arrangement. Otherwise, the arrangement will be annulled



****The arrangement is similar to the accelerated arrangement in relation to debtor in possession rights and protection from creditors. Both contain enforcement limitations (protection against creditors), but fewer available restructuring options than in the remedial (sanation) procedure.

****Note that the approval of the arrangement does not mean the procedure is over. Once the arrangement was approved, the debtor is in principle free to manage its assets but has to perform (under supervision of the arrangement supervisor and the restructuring court) its commitments set out in the approved arrangement. Otherwise, the arrangement will be annulled.

Contact

Catherine Bridge Zoller
Senior Counsel
Legal Transition Team
European Bank for Reconstruction & Development
LTTRestructuring@ebrd.com

13472/0921 Designed by Red Rocket Graphic Design | **www.redrocket.co.uk**

European Bank
for Reconstruction and Development