Business Reorganisation Assessment

Czech Republic

European Bank
for Reconstruction and Development

Special thanks to:

Allen & Overy LLP

Kinstellar Law Firm

Part A

General Information

Macro Data

11.09	2.3%	US$ 32,390	Czech koruna - Kč	21%	4.6%	2.6%
Population (million)[1]	GDP growth rate[1]	GDP per capita[1]	Currency[1]	Corporate tax rate[2]	Inflation rate[1]	Unemployment rate[1]

Insolvency Legislation

The primary legislative texts governing insolvency and restructuring for legal entities and entrepreneurs in Czech Republic are the **Act No 182/2006 Coll. on Insolvency and Methods for Its Resolution** (the Insolvency Law), effective on 1 January 2008, as amended and the **Act No. 284/2023 Coll. On Preventive Restructuring** (the Preventive Restructuring Law), effective on 23 September 2023, which has transposed **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.

Relevant secondary legislation includes **Act No. 89/2012, the Civil Code of the Czech Republic** (the Civil Code), effective from 1 January 2014 and as amended, **Act No 90/2012 Coll, on Commercial Companies and Cooperatives** (the Business Corporations Law) effective from 1 January 2014, which regulates certain aspects related to insolvency law such as consensual restructuring, the fiduciary duties of directors, the internal organisation of legal entities and the process of liquidating solvent companies, **Act No 91/2012 Coll, on Private International Law** (the Private International Law) adopted on 25 January 2012 and came into force from 1 January 2014, which provides the basis for the recognition of foreign decisions in insolvency proceedings conducted in countries outside the EU, **Act No. 312/2006, on Insolvency Trustees** (the Insolvency Trustees Law), effective from 1 January 2008, and the **Regulation 2015/848 on Insolvency Proceedings (recast)** adopted on 20 May 2015, which is directly applicable in all EU member states (except Denmark) and, as such, the Czech Republic, and which governs the coordination of cross-border insolvency proceedings within the EU.

[1] **IMF – Source as of March 2024:** www.imf.org/en/Countries/CZE

[2] **PWC – Source as of March 2024:** taxsummaries.pwc.com/czech-republic/corporate/taxes-on-corporate-income

Insolvency Data[3]

Certain data on insolvency proceedings and all documents relating to the proceedings are available in the **Insolvency Register** managed by the Ministry of Justice (ministerstvo spravedlnosti). The Insolvency Register is an electronic public administration information system accessible to public, free of charge. Below is an extract of some information on insolvency proceedings in the last three years:

	Petitions accepted by the court in 2021	Petitions accepted by the court in 2022	Petitions accepted by the court in 2023[4]
Commencement of insolvency proceedings	23,096	19,980	21,493
Decision on insolvency (bankruptcy)[5]	1,169	1,038	1,020
Reorganisation authorisation[6]	11	23	19
Discharge of debts approval/ authorisation[7]	21,495	18,099	18,970

Source: statistics of the Ministry of Justice

[3] At the time of publication (July 2024) there was no available official data on the use of the Preventive Restructuring Law, which entered into force in September 2023.

[4] Data for 2024 is subject to confirmation by the Ministry of Justice.

[5] The number of bankruptcy orders for each year also includes authorised reorganisations and debt discharges for consumers subsequently turned into bankruptcy orders.

[6] The numbers include, in addition to reorganisation authorisations, "pre-pack reorganisations."

[7] The number of approvals for discharge of debts derives from the number of decisions on bankruptcy following insolvency petitions filed on behalf of the debtor pursuant to Article 390a.

Company Information

The company law framework is generally governed by the Civil Code and the Business Corporations Law. The **Electronic Commercial Registry** serves as a centralised repository consolidating entries in company registries located in seven of the eight regional courts across the Czech Republic. The website enables users to search for registered entities, by denomination, free of charge. The Electronic Commercial Registry publishes the updated real-time information regarding the commencement of insolvency proceedings. It includes a **hyperlink** directing the user to the Insolvency Register, where relevant documentation related to insolvency proceedings is accessible.

Insolvency Courts, Regulatory Authorities and Practitioners

Insolvency court cases are considered in the regional courts. Regional courts have jurisdiction in the first instance for insolvency and restructuring proceedings. (Article 7a of the Insolvency Law; Article 44 (1) of the Preventive Restructuring Law). The competency of the court is established based on the location of the debtor's legal seat of operations. If the debtor changes its seat within six months prior to the filing of the insolvency application, the competent court conducting the insolvency proceeding is determined based on the previous registered seat of the debtor (Article 7b (1)). There are specialised insolvency judges.

The **Ministry of Justice** is the main government authority responsible for regulating insolvency proceedings and overseeing frameworks related to insolvency laws. The Ministry administers the **Insolvency Register**, which contains a list of insolvency practitioners (also known as insolvency administrators, restructuring administrators or insolvency trustees) (Article 25 of the Insolvency Law), a list of debtors, and decisions of the insolvency court decisions issued in insolvency proceedings and incidental disputes. The Register is publicly accessible and free of charge (Part 4, Articles 419 and 425). In the Czech Republic, every insolvency proceeding is administered by an insolvency administrator who can be either a natural person or a general partnership. However, an insolvency practitioner is not necessarily appointed during the preventive restructuring procedure (see below). The right to perform the activity of an insolvency administrator is governed by the Insolvency Trustees Law.

The Ministry of Justice maintains a list of insolvency practitioners (administrators and trustees) which is divided into two parts: i) the general part; and ii) the special part. The general part

of the list includes natural persons, general partnerships, and foreign companies that have acquired the right to carry out the activity of an insolvency practitioner. The general part of the list is maintained according to the districts of the regional courts: a) for insolvency administrators professionally focused on resolving the debtor's insolvency by debt relief; and b) for insolvency trustees professionally focused on resolving the debtor's insolvency by insolvent liquidation (bankruptcy). The special part of the list includes the individuals, general partnerships, and foreign companies that have acquired the right to administer the activities of specific debtors identified and listed under Section 3 of the Insolvency Trustees Law. These specific debtors encompass debtors who, according to a special legal regulation, are financial institutions subject to a special regime, securities traders, central depositories, securities settlement system operators, market operators in investment instruments, investment companies, investment funds, pension companies or pension funds. It also includes debtors: i) whose insolvency is being resolved by reorganisation; ii) whose annual total net turnover for the last accounting period preceding the insolvency petition reached at least CZK 100,000,000 (approx. €3,944,000); or iii) which employ at least 100 employees (Articles 16 to 22 of the Insolvency Trustees Law). General entry requirements for insolvency practitioners are mainly: the absence of a criminal record, a university master's degree, successful passing of the professional examination prepared by the Ministry of Justice, and professional practice for at least three years in a related field. Additionally, the "special insolvency trustees" who have the right to administer the activities of specific debtors listed under Section 3 of the Insolvency Trustees Law, must pass special professional examination, and meet a criterion to obtain a security clearance.

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Part B

Business Reorganisation

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**

Are there any incentives to conduct reorganisation?

There are no specific incentives, tax or otherwise, to conduct a reorganisation procedure. However, the Czech Republic legislator has introduced early warning tools pursuant to Article 3 of the Restructuring Directive to help businesses to detect the circumstances that could give rise to a likelihood of insolvency and signal the need to act without delay in the form of a web-based electronic information system called Financial Health, available **here**. The preventive restructuring procedure is generally conducted outside public scrutiny and offers the debtor an opportunity to resolve its financial difficulties without unnecessary publicity. If the debtor is insolvent, the debtor is obliged to file for insolvency without undue delay after becoming aware, or after it should have become aware, of the Insolvency (Article 98(1)of the Insolvency Law). The debtor's legal representatives and statutory body have the same duty (Article 98 (2)). As part of such petition, both the debtor and a registered creditor can file a petition for reorganisation (Article 317 (1)). Before the implementation of the Preventive Restructuring Law, many out-of-court restructurings in the Czech Republic commenced with the execution of a standstill agreement between the debtor and its main creditors, suggesting that the culture and practice of out-of-court restructurings is well developed.

What is the nature and purpose of the reorganisation procedure(s) for businesses?

The Preventive Restructuring Law introduced two pre-insolvency procedures for business debtors that are not yet insolvent, to avoid insolvency: the preventive restructuring procedure, and the public preventive restructuring procedure. (Article 4 (2) of the Preventive Restructuring Law). However, a debtor which is cash flow insolvent cannot access the procedure and the procedure is therefore only open to debtors which are over-indebted but not cash flow insolvent. The main difference between the two procedures is that the initiation of public preventive restructuring is publicly announced by a court decree and is thus recognised by the **Regulation (EU) 2015/848** (European Union Insolvency Regulation). Additionally, there is a reorganisation procedure for insolvent businesses within the insolvency proceedings under the Insolvency Law: the formal judicial reorganisation (reorganizace). **Click here** for an overview of these procedures.There are no special reorganisation procedures for strategically important businesses and no express role for alternative dispute resolution (mediation) as part of any of the procedures.

Preventive restructuring procedure

Preventive restructuring is a procedure aimed at preventing future insolvency and maintaining or restoring the operability of a business. Access to preventive restructuring is limited to businesses that are legal entities and that meet the following criteria: acting in good faith, in real financial difficulties, and which are not yet insolvent (Article 4 of the Preventive Restructuring Law). The decision to commence the procedure is voluntary and is initiated by the debtor only, who sends a written invitation to the affected parties (which includes creditors and shareholders and are defined as those whose rights will be directly impacted by the restructuring plan) to enter into negotiations on a restructuring plan. The debtor must accompany the written invitation with a remediation plan (in Czech: sanační project) while simultaneously notifying the restructuring court about the commencement of the procedure.

Judicial reorganisation procedure

A further reorganisation option is available within main insolvency proceedings for insolvent businesses: judicial reorganisation (reorganizace). Insolvency proceedings are court

proceedings concerning the debtor's insolvency or threatened insolvency and the manner of its resolution (Article 2 of the Insolvency Law). Insolvency proceedings can be initiated by the debtor or its creditors. In the case of threatened insolvency, only the debtor may file the insolvency petition (Article 97 (8)). If a creditor files an insolvency petition, it is obliged to prove that it has a claim against the debtor which is payable (Article 105 (1)). The debtor states in its insolvency petition to the court which method of resolving the insolvency it deems most appropriate. Following the submission of the insolvency petition and the publication of the information of commencement of insolvency proceedings in the Insolvency Register, the court will examine whether the debtor is insolvent and what type of procedure may apply. If it concludes that the debtor is insolvent, the court issues a declaration of insolvency (Article 136 (1)).

The judicial reorganisation procedure involves the gradual satisfaction of creditors' claims while maintaining the operation of the debtor's business and taking restructuring measures to improve the management of that business in accordance with a reorganisation plan approved by the insolvency court, and overseen by creditors. Reorganisation may be accessed if: i) the debtor exercises a commercial activity, and the reorganisation pertains to its business (this includes entrepreneurs as well as corporate debtors); ii) where the debtor is a legal entity, such entity is not in winding up proceedings and is not a securities trader or an entity authorised to trade on the commodity exchange; and iii) the debtor's total turnover in the last accounting period preceding the insolvency petition reached a minimum of CZK 50,000,000 (approx. €2,100,000) or the debtor employs more than 50 employees. Nevertheless, if condition iii) is not met, reorganisation can be used as a method of resolving insolvency if approved by the majority of creditors (calculated on the basis of the size of their claims), making the reorganisation process accessible to small and medium-sized enterprises (Article 316).

Insolvency is defined either as cash flow insolvency or as over-indebtedness. The cumulative conditions defining cash flow insolvency are met when the debtor concludes that it has: i) several creditors; ii) financial liabilities more than 30 days overdue; and iii) it is not able to fulfil such liabilities (Article 3 (1)). Over-indebtedness occurs when the debtor has several creditors and the aggregate of its liabilities exceeds the value of its assets (Article 3 (4)). When assessing the value of the debtor's assets, consideration is also given to the possibility of maintaining the business as a going concern, provided it can be reasonably expected, given all circumstances, that the debtor will be capable of doing so. Threatened insolvency can be established if it may reasonably be assumed that the debtor will not be able to meet a substantial part of its financial obligations in a due and timely manner (Article 3 (5)). The effects of the commencement of insolvency proceedings shall take effect upon publication in the Insolvency Register of the decision announcing the commencement of insolvency proceedings (Article 109 (4)).

In the case of threatened insolvency, the reorganisation may be proposed by the debtor before the decision of insolvency. Additionally, the debtor or any of its registered creditors (particularly those who have their claims lodged in the insolvency proceedings) may propose reorganisation after the declaration of insolvency, provided that it is done no later than 10 days before the creditors' meeting is scheduled (Article 318 (1)). The debtor does not need to go through preventive restructuring before entering the insolvency proceedings. Reorganisation may, however, be converted into liquidation (bankruptcy) proceedings if, among other reasons, the insolvency court does not approve the reorganisation plan, the debtor does not meet its obligations under the reorganisation plan, or it becomes obvious that it will be impossible to perform a substantial part of the reorganisation plan (Article 363).

To what extent is the court involved?

Preventive restructuring procedure

The preventive restructuring procedure is a voluntary and flexible process that relies on private negotiations between the business and affected parties. During preventive restructuring, there is minimal interference by the court. The court will only act in exceptional circumstances, such as: i) to declare a general or individual moratorium; ii) to confirm the restructuring plan, if it has not been approved by all the affected parties; iii) to correct the plan, if the correction relates to clerical or other mathematical errors and other manifest inaccuracies; iv) for cancellation of the restructuring plan under the circumstances provided in Article 102 of the Preventive Restructuring Law; and v) for the appointment of an insolvency practitioner (known as a restructuring administrator).

Judicial reorganisation procedure

Insolvency proceedings are fully court-supervised and the insolvency courts have a high degree of involvement through the entire procedure (Article 10 of the Insolvency Law), performing a supervisory role. This includes making determinations on matters concerning the conduct of the insolvency proceedings, implementing any measures necessary to uphold their purpose, and imposing obligations on the parties involved regarding their activities within the proceedings (Article 11). Specifically, with respect to the judicial reorganisation procedure, the court: i) decides on approving the reorganisation based on the voting of the creditors (Article 325 et seq.), ii) decides on the limitation of management rights of the debtor with the insolvency estate on the basis of a proposal of the creditors' committee or the insolvency administrator (Article 332); iii) approves the reorganisation plan provided that all conditions for its approval are met (Article 348), including the equal treatment of the receivables of the creditors and only if each creditor receives a benefit under it whose aggregate present value is equal to or greater than the value of the benefit it would be likely to receive if the debtor's insolvency were resolved by liquidation (bankruptcy); iv) may annul the decision on approval of the reorganisation plan in events anticipated by the Insolvency Law including the debtor's failure to comply with its material obligations under the plan (Article 362 & 363); v) may transform the reorganisation into liquidation (bankruptcy) in cases stated in the Insolvency Law (Article 363); and vi) rules on the fulfilment of the reorganisation plan by a resolution that terminates the reorganisation (Article 364 (3)).

Does the debtor remain in possession?

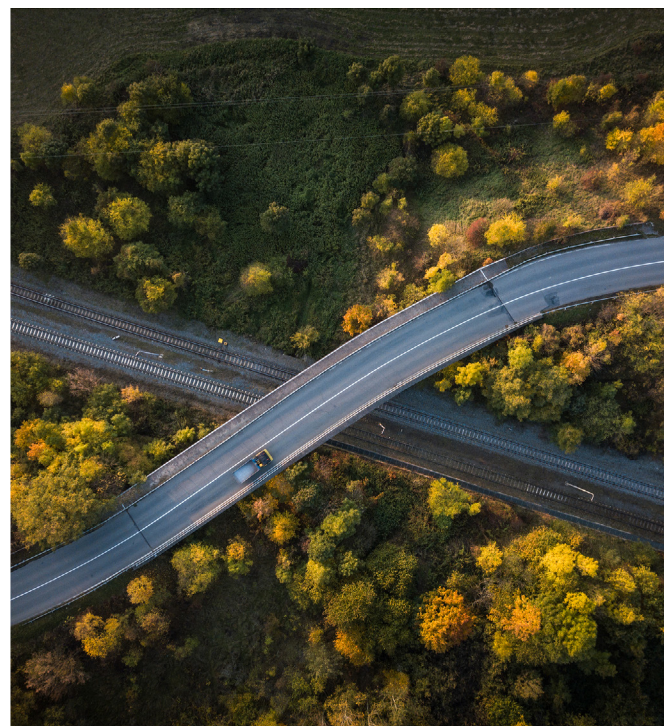
Preventive restructuring procedure

Yes, subject to the involvement and/or oversight of a restructuring administrator (insolvency practitioner) if appointed. Under this procedure, the debtor usually retains possession and control of their assets and operations while implementing the restructuring plan, unless the court decides otherwise or specific measures are required by the restructuring plan itself (Articles 14, 58 and 83 of the Preventive Restructuring Law). The restructuring court must appoint a restructuring administrator (from the list of restructuring administrators) immediately if: i) it is proposed by the debtor or by a majority of affected parties (as defined in the Preventive Restructuring Law); ii) the court considers a restructuring administrator to be necessary for protecting the interests of creditors in any general or individual moratorium; or iii) other reasons provided by the law apply (Article 59).

In all cases, the restructuring administrator exercises supervisory powers over the debtor, does not displace management of the debtor and is himself supervised by the court. The court is entitled: i) to request the restructuring administrator to report on the performance of the tasks assigned; ii) to explain the procedure chosen, the result achieved and the accounting; and iii) to give the restructuring administrator binding instructions, such as taking control of management of the debtor to the extent directed by the decision of the court, obtaining an expert opinion for the valuation of debtor's business, certifying the voting process for the adoption of restructuring plan, and carrying out court directed investigations and preliminary review of creditors' claims (Article 58).

Judicial reorganisation procedure

Yes, subject to the involvement and/or oversight of an insolvency practitioner and as directed by the court. After the commencement of insolvency proceedings (however no later than in the declaration of insolvency) the insolvency court shall appoint an insolvency practitioner (administrator) from the official list maintained by the Ministry of Justice (Article 21 of the Insolvency Law). On the decision of the court to conduct a reorganisation, any restrictions on the debtor's management powers that have been imposed by law or by decision of the insolvency court during the insolvency proceedings to date are lifted, unless the insolvency court decides otherwise (Article 330 (1)).



In this procedure, the insolvency administrator performs supervisory functions, unless the court gives him greater rights and responsibilities. The insolvency administrator primarily supervises any management decisions by the debtor, seeks to determine the debtor's assets and inventory, manages disputes, compiles the list of creditors and reports to the creditors' committee (Article 331). Further, if the court restricts the management decision powers of the debtor, such powers are transferred and exercised by the insolvency administrator (Article 332). Nevertheless, legal acts of fundamental importance concerning the disposal and management of the insolvency estate are carried out by a debtor in possession, only with the consent of the creditors' committee (Article 330 (2)).

Insolvency practitioners also act in the capacity of the debtor's general meeting or its members' meeting if the performance of such meeting is suspended by the insolvency court (Article 333). The insolvency administrator also ensures that the procedural acts connected with the effectiveness of the reorganisation plan are carried out. Where the debtor has retained full management powers, the administrator reports to management on their activities and carries out other acts necessary to enable the debtor to exercise its powers. During the implementation of the reorganisation plan, the insolvency administrator supervises the activities of the debtor and is required to focus on completing the list of assets and liabilities and on recording the activities of the debtor where it has retained full management powers. The administrator reports to the insolvency court and the creditors' committee regularly, but at least once every three months, on the results of the administrator's activities (Article 354).

When the debtor files a petition for insolvency, which is accompanied by a reorganisation plan, the plan can include a proposal for an insolvency administrator. The court shall appoint the designated person providing they fulfil the general conditions of insolvency administrators (Article 25). Creditors may subsequently vote to remove and replace such administrator (Articles 29 and 148 (2)).

Who are the parties and what is the content of the plan?

Preventive restructuring procedure

In this procedure, the debtor chooses which creditors will be directly affected by the restructuring plan (e.g., financial creditors only). Other creditors whose rights will not be affected do not automatically participate in the restructuring process. The restructuring plan defines the legal position of the parties concerned and the effect of the proposed restructuring measures on such parties' rights. The plan is drawn up by the business and must include the business' identity, economic situation, and the reasons in favour of the plan's success. It is separated into descriptive and binding parts, outlining the affected rights, the management of assets and liabilities, the detailed restructuring measures, the monitoring procedures, the assets and liabilities not recorded on the debtor's balance sheet, and provisions for a cash reserve to satisfy objections from concerned parties.

The restructuring plan may involve the following measures: restructuring of assets, debt restructuring, equity restructuring or operational changes (Article 16 of the Preventive Restructuring Law). The restructuring of liabilities shall include the postponement of any debt maturities, the establishment of any payment schedule or other repayment terms, and the conversion of any creditor's short-term receivable into a long-term obligation, often through its transformation into a credit or loan, modification of interest rate, default interest rate and late payment charges (Article 18). The procedure recognises debt-to-equity swaps, which must be properly described in the restructuring plan. Such description shall include the composition of new shareholders, including each shareholder's percentage of the registered capital and voting rights. The consent of the shareholders is essential for carrying out any debt-to-equity swap (Articles 16 and 20): There is no maximum time limit for the implementation of the restructuring plan.

Judicial reorganisation procedure

The parties to the formal judicial reorganisation proceedings are the debtor and all creditors who assert their rights against the debtor, also known as registered creditors. Where the number of registered creditors exceeds 50, the meeting of creditors appoints a creditors' committee (Article 56 of the Insolvency Law). The reorganisation plan defines the legal position of the persons concerned e.g., the creditors' groups or classes for voting purposes as a result of the approval of the reorganisation on the basis of measures aimed at the rehabilitation of the debtor's business (Article 338).

The reorganisation plan must include: i) the division of creditors into groups, specifying how the claims of creditors in each group will be addressed; ii) the manner of reorganisation; iii) the determination of the measures for the implementation of the reorganisation plan; iv) an indication as to whether the debtor's undertaking or part of it will continue to operate and under what conditions; v) an indication of the persons who will contribute to the financing of the reorganisation plan or assume certain of the debtor's liabilities or ensure their fulfilment, including the extent to which they are willing to do so; vi) an indication of whether and how the reorganisation plan will affect employment in the debtor's undertaking and the measures to be taken to that end; and vii) an indication of whether and what liabilities to creditors the debtor will have after the end of the reorganisation (Article 340).

The reorganisation may involve in particular the following measures: i) the restructuring of creditors' claims, consisting in the cancellation of part of the debtor's debts, including any fees or interest accrued on such debt or in the postponement of their maturity; ii) the sale of all or part of the debtor's assets or the sale of the debtor's undertaking; iii) the surrender of part of the debtor's assets to creditors or the transfer of those assets to a newly established legal entity in which creditors have an equity interest; iv) a merger of the debtor-legal person with another person or a transfer of its assets to a shareholder with the preservation or modification of the rights of third parties, if permitted by competition law; v) the issue of shares or other securities by the debtor; vi) the provision of financing for the operation of the debtor's business or part thereof; and vii) amending the articles of association or other documents governing the internal affairs of the debtor (Article 341).

The Insolvency Law does not expressly recognise debt-to-equity swaps, but such arrangements can be included as part of the reorganisation plan (Article 341 (1)). The plan can also provide that certain creditors' rights are unaffected by the reorganisation. A class of unaffected creditors is considered to accept the reorganisation plan even though it does not formally vote on the reorganisation plan (Articles 337 (3) and 347 (4)). There is no maximum time limit for the implementation of the reorganisation plan.

Is there any applicable stay or moratorium?

Preventive restructuring procedure

Yes, if requested by the debtor. Under this procedure, an application for a general moratorium may be requested by the debtor from the commencement of preventive restructuring until the effectiveness of restructuring plan (Article 73 of the Preventive Restructuring Law). A general moratorium is effective from the moment of publication of the decision of the restructuring court granting the moratorium in the restructuring register and lasts up to a period of three months or for a shorter period specified in the moratorium proposal (Article 76). The court will extend the general moratorium at the request of the debtor for an additional period of up to three months if the debtor has made reasonable progress in negotiating or preparing a restructuring plan, provided the debtor has submitted evidence of the written consent of the majority of parties concerned regarding its extension, together with a reasoned recommendation from the restructuring administrator.
The term or duration of a general moratorium can be only extended once (Article 77).

A general moratorium binds the creditors specified in the application for a general moratorium. For the duration of general moratorium, enforcement proceedings cannot be ordered, initiated or carried out by the creditors affected by the moratorium against any property owned by the debtor business (Article 78 (2)). Furthermore. the Preventive Restructuring Law provides an option for an entrepreneur to enter into a standstill agreement with its creditors, where the creditors agree not to pursue their rights against the debtor within a defined timeframe.

The Preventive Restructuring Law also recognises an individual moratorium that can be declared against a maximum of three creditors and for which the debtor can apply even before the commencement of the preventive restructuring (Articles 85 and 86).

Judicial reorganisation procedure

Yes, if requested by the debtor. The debtor may request a moratorium from the insolvency court within seven days of filing the insolvency petition (or within 15 days if the insolvency petition is filed by a creditor) (Article 115 of the Insolvency Law). The court shall decide on the application for a moratorium by the end of the business day following the day on which it receives such an application (Article 117). The moratorium shall be effective from the moment of publication of the decision on its announcement in the Insolvency Register and shall last for the period specified in the moratorium petition, but no longer than three months. The court may, on the debtor's motion, extend the moratorium for not more than 30 days if the debtor attaches to such motion an updated list of liabilities as of the date of the motion and a written declaration of the majority of its creditors, calculated according to the amount of their claims, that they agree to the extension of the moratorium (Article 119).

The declaration of insolvency – which takes effect upon its publication in the Insolvency Register - suspends court and arbitration proceedings in respect of claims and other rights relating to the assets which are to be (or which are regarded as) filed in the insolvency proceedings or claims which are not satisfied in the insolvency proceedings (Article 140a (1)). During the period during in which the effects of the insolvency decision are in force, no enforcement of a decision or execution may be ordered or commenced affecting property owned by the debtor, as well as other property belonging to the estate (Article 140e (1)). Every creditor (not only the registered creditor) has the right to seek satisfaction of its claim against a third party which has provided security in rem or in person for its claim. The creditor's right to seek satisfaction of the claim from any person liable to it jointly and severally with the debtor shall not be affected by the application for registration of the claim (Article 183).

After the reorganisation plan has become effective, enforcement of a judgment or execution may be ordered and carried out against the debtor to recover a claim provided for in the reorganisation plan. However, if the claim has been denied, enforcement or execution may only take place if the decision of the insolvency court establishing the claim has become final; such decision must be attached to the petition for enforcement (Article 360 (1)). The declaration of insolvency shall not interrupt any proceedings concerning (among others) outstanding wage claims of the debtor's employees (Article 140d (2)).

Is business continuity protected?

Preventive restructuring procedure

Yes, business continuity is protected through the general moratorium or the individual moratorium, as applicable. During the moratorium, unfulfilled contracts for the supply of goods, services, energy or other types of performance that are necessary for the continuation of the normal operation of the business cannot be terminated by the other party for the sole reason that the debtor has due debts that arose before the initiation of the moratorium (Article 80 (1) of the Preventive Restructuring Law). Furthermore, any new financing (interim financing and financing under the restructuring plan) is granted priority of repayment before other unsecured creditors in any subsequent insolvency proceedings of the debtor (Article 169 (2)(b)).

The restructuring plan must contain information on the impact of the procedure on the employees (Article 14 (4)(d)(3) of the Preventive Restructuring Law). Employees may be dismissed as part of the procedure (Article 21 (1)(d)). However, any reduction in the number of employees as part of the procedure may only be done only with the consent of the employees or their representatives, if such requirement is set out in the employment agreement (Article 21 (2)). A restructuring plan which proposes to reduce the number of employees of the debtor by 25 per cent or more must be approved by the insolvency court (Article 39 (1)). However, the preventive restructuring procedure does not apply to employee claims and the debtor is prohibited from reducing the value of employee claims or rescheduling any payments owed to employees as part of the procedure (Article 22 (1)(a)).

Judicial reorganisation procedure

Yes, business continuity is protected by the moratorium. Essential contracts, such as contracts for utilities or raw materials that have been in place for at least three months at the time of commencement of the moratorium cannot be terminated by the other party due to the debtor's failure to pay for deliveries. Set-off of claims against the debtor are forbidden (unless the insolvency court rules otherwise by a preliminary measure) (Article 122 of the Insolvency Law). The Insolvency Law also contains specific provisions regulating under what circumstances a lease agreement can be terminated (Article 256).

New financing is protected under the Insolvency Law. The insolvency administrator may enter into credit and similar contracts on normal commercial terms and conditions, in order to maintain or restore the operation of the debtor business, as well as into contracts for the supply of energy and raw materials, including contracts to secure the performance of such contracts (Article 41 (1)). Existing secured creditors have a preferential right to conclude such new financing contracts unless they offer worse conditions than the best offer (Article 41 (2)). Any new financing has priority and is satisfied before all other claims, except for the expenses and remuneration of the insolvency administrator (Article 357 (1)). However, if the new financing is provided by a new creditor (i.e., not a pre-existing secured creditor with a preferential right to offer the new financing to the debtor) the new financing shall have the same ranking as the claims of secured creditors which did not exercise their preferential right pursuant to Article 41 (2). Therefore, in a subsequent liquidation of the debtor, claims arising from new financing can be satisfied from assets that were originally secured in favour of other creditors in a pari passu manner with the relevant secured claims. An expert opinion is required to determine how the security will be distributed between existing secured creditors and the creditors providing new financing (Article 357 (2)). Nevertheless, in practice the satisfaction of new financing claims from existing secured assets can only occur if the new financing cannot be satisfied from other sources or realisations from the insolvency estate.

Employment contracts are not directly affected by reorganisation, even if a change of ownership takes place as a result of the reorganisation. Nonetheless, employees may be dismissed as part of measures adopted under the reorganisation plan to secure continuation of the business. The reorganisation plan must indicate whether and how the reorganisation will affect employees of the debtor's business and the measures to be taken with respect to employees (Article 340 (1)(f)).

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

Preventive restructuring procedure

Yes, under this procedure, the affected parties are grouped separately for voting purposes based on their legal status and economic interests. The restructuring plan will state the criteria according to which the division of creditors into classes (groups) took place. The following are required by law to vote in separate classes: affected parties with secured claims, business partners, related parties and non-VAT paying individuals (Article 32 of the Preventive Restructuring Law).

Judicial reorganisation procedure

Yes, in judicial reorganisation proceedings, creditors are divided into classes so that each class includes creditors with substantially identical legal status and substantially identical economic interests (Article 337 of the Insolvency Law). The distribution of creditors in various classes shall be contained in the reorganisation plan, which must indicate the criteria according to which the distribution of creditors was made (Article 337 (1)).

In essence, the Insolvency Law distinguishes between secured creditors, e.g., creditors whose claims are secured by property belonging to the estate, and by a pledge, a lien, a restriction on the transfer of real property, a security interest, or an assignment of a secured claim or a similar right under foreign law (Article 2), and unsecured creditors. State authorities acting as creditors do not have any preferential treatment. Shareholders holding credits against the debtor (e.g., shareholder loans) and members of the debtor (e.g., subsidiaries of the debtor) are treated on a par with unsecured creditors.

In judicial reorganisation proceedings, the following groups of creditors are excluded from voting at the creditors' meeting: creditors with claims against the insolvency estate (Articles 168 and 169), creditors with claims excluded from the insolvency resolution method (Article 170) and creditors with subordinated claims (Article 172).

What are the majorities required to approve a reorganisation plan?

Preventive restructuring procedure

The restructuring plan is approved by a class of creditors if a majority of at least three-quarters of the votes (creditors' claims) in that class vote in favour of the plan. A restructuring plan is accepted if it has been accepted by all classes of interested parties (Article 36 of the Preventive Restructuring Law). Dissenting creditors have a right to challenge the restructuring plan before the restructuring court after the vote and prior to the approval by the court of the plan. The debtor can impose the restructuring plan on other groups of dissenting creditors, known as "cross-class cram down", if at least one voting group approves the plan, subject to certain conditions (Article 99). Any cram down process applies an absolute priority rule and requires the fair treatment of dissenting creditors, ensuring equity within the restructuring plan, the debtor acting in good faith, and adherence to similar criteria to those governing the imposition of a reorganisation plan on dissenting creditors during insolvency proceedings.

Judicial reorganisation procedure

A resolution of a meeting of creditors to proceed with reorganisation shall be adopted if (of the creditors registered on the day preceding the meeting of creditors): i) at least half of all secured creditors present and at least half of all unsecured creditors present, in each case calculated according to the amount of their claims, voted in favour of it; or ii) at least 90 per cent of all creditors present by value of their claims voted in favour (Article 151 (1) of the Insolvency Law).

Voting on the plan takes place at a creditors' meeting convened for that purpose (Article 344), unless the debtor has submitted a pre-pack restructuring plan. If a majority of voting creditors whose claims represent at least half of the total nominal value of the claims of voting creditors in a class vote in favour of the reorganisation plan, the whole class (and any dissenting creditors within that class) shall be deemed to have accepted the reorganisation plan (Article 347 (1)). In the case of a class of shareholders, the class shall be deemed to have accepted the reorganisation plan if a majority of the shareholders or members have voted in favour of its acceptance. In the case of a debtor with share capital, the aggregate shareholding of those shareholders must represent at least two-thirds of the debtor's share capital (Article 347 (2)). A creditor with several claims in different classes votes separately in each class in respect of its relevant claims (Article 347 (3)). Any creditors or group of creditors whose claims are not affected by the reorganisation plan are deemed to have accepted the reorganisation plan (Article 347 (4)).

Cross-class cram down is also available under this procedure. Thus, the court can approve the reorganisation plan even if it is not accepted by each class of creditors if: i) at least one class of creditors, excluding the class of shareholders/members of the debtors as referenced in Article 335 of the Insolvency Law, accepted the plan; ii) the plan ensures equal treatment of creditors; iii) the plan is fair to dissenting classes; and iv) it can reasonably be assumed that the approval and implementation of the reorganisation plan will not lead to another insolvency of the debtor or to its liquidation (Article 348 (2)). The decision of the court on the approval of the reorganisation plan can be appealed by any dissenting creditors that voted against the reorganisation plan (Article 350 (1)). Once the plan is approved, it is binding on all parties to the insolvency proceedings and on other persons whose rights and obligations are affected by the plan (Article 352 (2)).

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

Preventive restructuring procedure

Preventive restructuring proceedings are deemed to commence on the date a party receives a written invitation to start negotiations on the restructuring plan (Article 6 of the Preventive Restructuring Law). There is no maximum duration for preventive restructuring proceedings.

The procedure may end, among other reasons: i) if the debtor conveys its intention to discontinue negotiations on the restructuring plan; ii) if the restructuring plan has not been put to vote within six months from the commencement of proceedings; iii) due to successful or unsuccessful implementation of the restructuring plan; and iv) on the legal decision from the restructuring court declaring the debtor insolvent in the insolvency proceedings, declining to confirm the restructuring plan, or annulling the restructuring plan (Article 42). A restructuring plan shall be effective on the date of its adoption by the court and effective with regard to all parties concerned (Article 39).

An application for a general moratorium may be filed with the restructuring court by the debtor from the commencement of proceedings until the restructuring plan comes into effect (Article 73). A general moratorium is effective from the moment of publication of the decision of the court to grant it in the restructuring register and lasts up to a period of three months or for any shorter period specified in the moratorium proposal. The restructuring court shall extend the general moratorium at the request of the debtor for up to three months: i) if it has made reasonable progress in negotiation or drawing up a restructuring plan; ii) if the debtor has submitted the written consent of all the parties concerned to its extension; or iii) if the debtor has submitted a reasonable recommendation from the restructuring

administrator. A general moratorium can be only extended once. An individual moratorium may be declared against a maximum of three creditors, more than once, and may also be declared prior to the commencement of preventive restructuring proceedings, provided such proceedings are initiated by the business within 30 days of the court's decision declaring an individual moratorium (Article 86).

The maximum duration of both general and individual moratoriums for any creditor is limited to 12 months. However, if the corporate debtor has shifted its main centre of interests to the Czech Republic from a foreign country within three months before commencement of proceedings, the maximum duration of any general or individual moratorium is four months (Article 76). There is no maximum period for the duration of the preventive restructuring plan. The debtor must inform its affected parties about the implementation of the plan (Article 41), enabling them to supervise the plan.

Judicial reorganisation procedure

In a standard judicial reorganisation proceeding, which is part of main insolvency proceedings, the reorganisation plan must be submitted within 120 (or up to 240) days after the court authorises the reorganisation procedure (Article 339 of the Insolvency Law). On average, reorganisation takes 13 months from the commencement of the proceedings to the confirmation of the reorganisation plan (excluding its implementation).

Reorganisation terminates on the issuance of a decision by the insolvency court confirming the satisfaction of the reorganisation plan. The reorganisation plan can be annulled by the insolvency court within six months from its effective date if it finds that specific advantages were conferred upon a creditor without the requisite consent from other creditors belonging to the same class or if the approval of the reorganisation plan was procured through fraudulent means. The insolvency court shall also decide to annul the reorganisation plan within three years of its effectiveness if it finds that the debtor, its legal representatives, or a member of the legal representatives' body has been convicted of a deliberate criminal offence aimed at securing the approval of the reorganisation plan or significantly defrauding creditors (Article 362).

The moratorium is effective from the moment of publication of the decision on its announcement in the Insolvency Register and lasts for the period specified in the moratorium petition, but no longer than three months (Article 119). The insolvency court may, on the debtor's motion, extend the moratorium for not more than 30 days if the debtor attaches to such motion an updated list of liabilities as of the date of the motion and a written declaration of the majority of its creditors, calculated according to the amount of their claims, agreeing to the extension of the moratorium (Article 119 (2)).

A moratorium ends when its declared period expires or earlier if revoked by the insolvency court. The insolvency court can revoke the moratorium: i) if a majority of creditors (by claim amount) apply for it; and b) without a motion, if the debtor provided false information or had dishonest intentions, e.g. favouring certain creditors. The moratorium also ends if the insolvency petition is rejected, dismissed, or the proceedings are discontinued (Article 124). A debtor may file a petition for a moratorium with the insolvency court even before the commencement of insolvency proceedings (Article 125).

There is no maximum period for the duration of the plan. The insolvency administrator supervises the implementation of the plan and ensures that procedural steps related to the effectives of the plan are carried out (Article 354). Furthermore, the creditors' committee monitors the implementation of the reorganisation plan by a debtor who has retained management powers under the plan (Article 355). The debtor with management powers is obliged to inform the insolvency administrator of its legal acts, the implementation of the reorganisation plan, and its other activities pursuant to the reorganisation plan. The debtor is also required to report to the insolvency administrator on current business operations and on the performance of long-term or recurring activities in aggregate for the time periods specified in the reorganisation plan or by decision of the insolvency court (Article 354 (3)).

Does the insolvency legislation facilitate cross-border insolvency?

Yes. As a member of the European Union, the Czech Republic is subject to the European Union Insolvency Regulation, which governs the coordination of cross-border insolvency proceedings within the EU. The Czech Republic has not adopted any of the UNCITRAL Model Laws (see below). However, some aspects of cross-border insolvency are regulated in Articles 426 to 430 of the Insolvency Law. Given the European Union Insolvency Regulation, bilateral treaties on insolvency proceedings have become obsolete. However, the Czech Republic remains bound by a treaty with Switzerland dating back to 1927 concerning legal cooperation, which explicitly includes insolvency proceedings. This treaty primarily regulates the procedures for the exchange of court documents.

Model Law	Official enactment
UNCITRAL Model Law on Cross-Border Insolvency (1997)	✖
UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments (2018)	✖
UNCITRAL Model Law on Enterprise Group Insolvency (2019)	✖

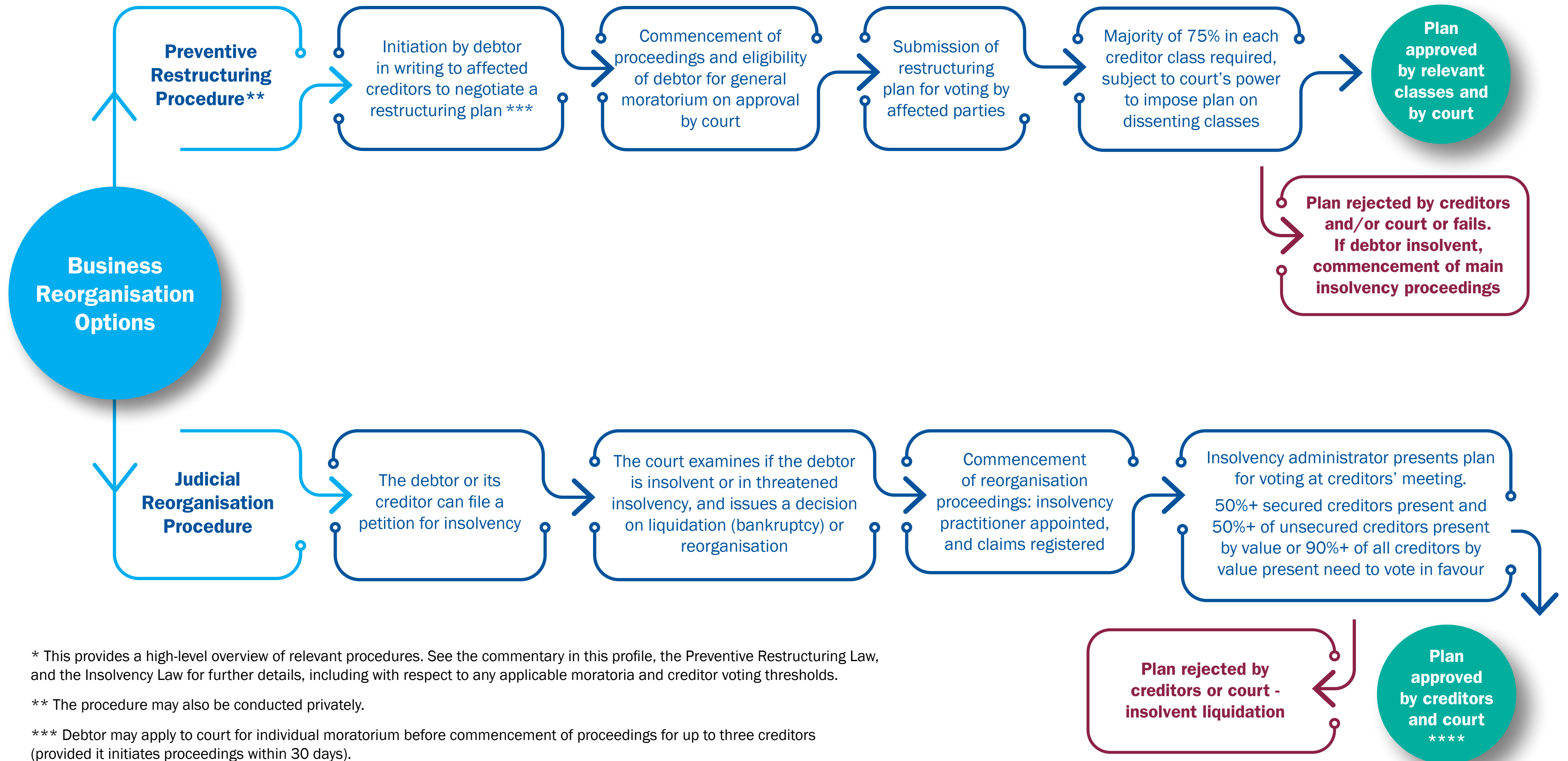
Are there any special provisions for (M)SMEs?

There is no designated procedure for micro, small and medium-sized enterprises. However, some insolvency rules are simplified for main insolvency proceedings involving small businesses. Such rules apply to businesses where the total turnover of the debtor for the last accounting period preceding the declaration of insolvency did not exceed CZK 2,000,000 (approx. €78,878) and the debtor has no more than 50 creditors (Article 314 (1) of the Insolvency Law).

Unless the meeting of creditors decides otherwise, the small business insolvency procedure follows the same rules as any other insolvency procedure, subject to some modifications: i) instead of a creditors' committee, the creditors may appoint a creditors' representative; ii) no approval of the insolvency court or creditors' consent is required for an agreement on the division of any matrimonial property to take effect; iii) no approval of the insolvency court or creditors' consent is required for the exclusion of bad debts and of assets, rights or other property which cannot be sold; v) timely objections to the final report and accounts may be decided without a hearing; vi) at the review hearing, all matters which otherwise only the meeting of creditors would be entitled to decide may be discussed at the same time and, if expedient, the final report and accounts may also be presented and objections to them may be discussed; and vii) where the insolvency administrator submits a draft arrangement order together with the final report, the insolvency court may combine the decision to approve the final report with the arrangement order, the arrangement order coming into force at the earliest on the date of the legal effect of the decision to approve the final report (Article 315 (1)).

Unless it is contrary to the decision of the creditors' meeting, the insolvency court may provide for other derogations from the Insolvency Law for a small-scale business insolvency if they will lead to the more efficient and cost-effective conduct of the insolvency proceedings. Such derogations may not affect the position of secured creditors or the principles of the insolvency proceedings. The insolvency court may combine this decision with its decision on applying the small business insolvency rules or may issue it at any later time (Article 315 (2)).

Overview of Czech Republic Preventive Restructuring and Business Reorganisation Procedures*



* This provides a high-level overview of relevant procedures. See the commentary in this profile, the Preventive Restructuring Law, and the Insolvency Law for further details, including with respect to any applicable moratoria and creditor voting thresholds.

** The procedure may also be conducted privately.

*** Debtor may apply to court for individual moratorium before commencement of proceedings for up to three creditors (provided it initiates proceedings within 30 days).

**** Implementation of plan supervised by insolvency administrator and creditors' committee and debtor subject to certain information requirements.

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