Business Reorganisation Assessment

Croatia

European Bank
for Reconstruction and Development

Special thanks to:

Law Office Lehki

Mamić Perić Reberski Rimac Law Firm

Schönherr Rechtsanwälte GmbH

Part A

General Information

Macro Data

3.841	2.7%	US$ 20,880	€ Euro – EUR	18%	8.6%	10.8%
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 text governing pre-insolvency and insolvency (bankruptcy) proceedings of non-bank legal entities and entrepreneurs (natural persons) in Croatia is the **Insolvency Law** (Official Gazette No. 71/2015) as amended in 2017 (Official Gazette No. 104/2017) and 2022 (Official Gazette No. 36/2022) (the Insolvency Law).[3] In addition, for large companies meeting the requirements of systemic importance, the **Act on Extraordinary Administration Procedure in Companies of Systemic Importance** applies.

The licensing and training of insolvency practitioners (known as bankruptcy administrators) is regulated by a separate **Ordinance on the passing of the professional examination, training and professional development of bankruptcy administrators** of 29 April 2022 (Official Gazette No. 51/2022).

Other relevant secondary legislation based on the Insolvency Law includes: by-laws on the contents and the forms for submissions in bankruptcy and restructuring proceedings (Official Gazette Nos. 67/2019 and 54/22); by-laws on the criteria and manner of calculation and payment of fees of bankruptcy administrators (Official Gazette No. 105/2015); by-laws on the determination of the bankruptcy administrator list (Official Gazette No. 51/2022); by-laws on passing the professional examination, training and professional development of bankruptcy administrators (Official Gazette No. 51/2022); by-laws on the manner of the collection of data on procedures concerning restructuring, insolvency and discharge of debt (Official Gazette No. 40/2022); by-laws on the types and amounts of fees of the **Financial Agency** in restructuring proceedings and on the fee of the Financial Agency for the submission of motions for opening of bankruptcy proceedings (Official Gazette Nos. 106/2015 and 54/2022); by-laws on the list of the units of the Financial Agency and areas of their competence in pre-insolvency proceedings (Official Gazette No. 106/2015); and by-laws on the conditions and the manner for the selection of a bankruptcy administrator by random selection (Official Gazette No. 106/2015). In 2022 a **Code of Ethics** for the profession of insolvency practitioners, and by-laws on procedures for violations of the Code of Ethics for insolvency practitioners and on election of the ethical committee chairperson were adopted by the **Ministry of Justice and Public Administration** (Official Gazette No. 121/2022).

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 was transposed into national legislation in March 2022 (2022 Amendment) (Article 1.a **Official Gazette No. 36/2022**).

[1] **IMF – Source as of October 2023:** www.imf.org/en/Countries/HRV

[2] **PWC – Source as of June 2023:** www.taxsummaries.pwc.com/croatia/corporate/taxes-on-corporate-income

[3] The Croatian insolvency legislation used to include the Act on Financial Operations and Pre-Bankruptcy Settlement (Official Gazette Nos. 108/2012, 144/2012, 81/2013, 112/2013, 78/2015 and 71/2015) however the insolvency provisions of this Act are no longer in force.

Insolvency Data

An **Insolvency Register** was introduced in accordance with the requirements of Article 24 of Regulation (EU) 2015/848 (the EU Insolvency Regulation) on insolvency proceedings. The insolvency register includes mandatory information pursuant to Article 24 (2) of the EU Insolvency Regulation, e.g. the date of the opening of insolvency proceedings; the court opening insolvency proceedings and the case reference number, if any; the type of insolvency proceedings referred to that were opened and, where applicable, any relevant sub-type of such proceedings opened in accordance with national law; and if the debtor is a company or a legal person, the debtor's name, registration number, registered office or, if different, postal address. The register also contains information about consumer insolvency. The Insolvency Register is available free of charge. However, to search the register, one of the following criteria must be inserted: i) the name of the legal entity or natural person, ii) a personal identification number (OIB); or iii) a Companies Register number. The register does not provide aggregated or disaggregated data on insolvency proceedings and does not publish any insolvency statistics. Data in the Insolvency Register includes restructuring and bankruptcy proceedings opened on or after 1 September 2015 and consumer bankruptcy proceedings opened on or after 1 January 2016. The Insolvency Register is updated daily.

According to Article 20.b of the Insolvency law, as amended in 2022, the **Ministry of Justice and Public Administration** must collect and generate each year national data on procedures related to restructuring, insolvency and debt relief, by type of procedure. Data shall include the number of procedures, the average duration, the average cost of each type of procedure, the average collection rates for secured and unsecured creditors, and the number of entrepreneurs who started a new business after the procedure has ended. The methods and criteria for the collection of data on procedures concerning restructuring, insolvency and discharge of debt are regulated by separate by-laws on the manner of collection of data on procedures related to restructuring, insolvency and debt relief (**Official Gazette No. 40/2022**) issued by the Minister of Justice.

Information on insolvency proceedings can be found on the following website maintained by the Ministry of Justice and Public Administration: the **e-Announcement Board** (e-Oglasna ploča). The Ministry publishes statistical data on an annual basis, covering all types of court cases, including restructuring and bankruptcy procedures **here**.

Data is available under the following links (in Croatian only) for **2018, 2019, 2020, 2021**, and **2022**. However, the data does not show the outcome of bankruptcy proceedings and whether these resulted in liquidation or reorganisation of the debtor's business.

Insolvency cases	2018	2019	2020	2021	2022
Number of new cases	9,207	7,166	4,796	8,815	7,422
Number of solved cases	9,422	8,436	6,194	8,138	8,601
Number of unsolved cases	8,646	7,108	6,101	6,778	5,604
Number of days to solve the case	335	308	360	304	238

The Croatian **Financial Agency** (FINA) has published an aggregated overview of restructuring settlement cases under the Act on Financial Operations and Restructuring Settlement for the period from 2012 to 2021 **here**. The procedure was abolished following the removal of the insolvency provisions in the Act (see footnote above).

Statistical information showing overall trends in insolvency (bankruptcy) proceedings from 2017 to 2022 is also available on the website of the **State Statistics Bureau**.

Certain information on insolvency proceedings (such as lists of insolvency practitioners, changes in legislation, basic information on proceedings and auctions of assets in insolvency) is available on the judicial network website of **Sudačka mreža**. The list of assets sold in insolvency proceedings (real estate and movables of significant value) is published by FINA **here**. With regard to consumer bankruptcy cases, which fall outside the scope of the EBRD Business Reorganisation Assessment, data is published by the Financial Agency (FINA) **here** and the Supreme Court Report (2021) **here**. Information about whether a company is subject to an insolvency procedure is also available on the Companies Register's website **here**.

Company Information

The Croatian company law framework is mainly governed by the 1993 **Companies Act** (as amended). In Croatia the companies register is managed by the commercial courts. Data on registered entities is accessible online and free of charge on the website of the **Court Register** of the Ministry of Justice and Public Administration. The Court Register contains information on both the opening and termination of any insolvency proceedings with respect to registered companies.

Insolvency Courts, Regulatory Authorities and Practitioners

Insolvency (bankruptcy) proceedings fall within the competence and exclusive jurisdiction of commercial courts as first instance courts. Links to all commercial courts are available **here**. The courts in Zagreb and Split have judges with more experience on insolvency cases and are allocated most of the insolvency cases. As a general rule, the jurisdiction of the court is determined on the basis of the registered seat of operations of the debtor as at the date of submission of the petition for the commencement of insolvency proceedings. The **High Commercial Court of the Republic of Croatia** acts as the second instance (appeal) court. The final level of appeal is the **Supreme Court of the Republic of Croatia**, which can decide on extraordinary remedies. Furthermore, the **Constitutional Court of the Republic of Croatia** can decide on constitutional lawsuits, e.g., in the case of breach of constitutional rights by court decisions.

The main government authority responsible for regulation of insolvency proceedings is the Ministry of Justice and Public Administration. The Ministry is responsible for the licensing and supervision of insolvency practitioners. They are registered on two lists: the regular list and the list of highly qualified insolvency practitioners. Insolvency practitioners who meet certain criteria (having: i) at least seven years of registration on the list of insolvency practitioners; ii) completed at least two bankruptcy reorganisation procedures involving debtors classified as medium- and large-sized entrepreneurs in terms of accounting regulations; and iii) completed at least two bankruptcy reorganisation procedures with confirmed bankruptcy plans) may be registered on the list of highly qualified insolvency practitioners. The Ministry is also responsible for delivering any training to insolvency practitioners.

A list of insolvency practitioners and their cases is published on **e-Oglasna ploča** (Articles 78 and 79 of the Insolvency Law). The Ministry is responsible for adopting, in cooperation with the insolvency practitioner association, a Code of Ethics for insolvency practitioners. The election of the chairperson of the ethical committee and the procedures concerning violation of the **Code of Ethics** are regulated by separate by-laws issued by the Ministry (Articles 83b and 83c of the Insolvency Law).

Other competent authorities involved in insolvency procedures relating to businesses (other than banks and financial services firms) are the Financial Agency (FINA), which has certain competences within bankruptcy, restructuring and consumer bankruptcy procedures, and the **Agency for Employees Claims Insurance**.

Continue to Part B →

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 a reorganisation?

Yes, Croatia has implemented early warning tools to incentivise an early intervention and has introduced tax deductions for creditors that write off debt (Article 62.3 of the Insolvency Law). Additionally, if a bankruptcy procedure (Stečajni postupak) is initiated, the debtor's management lose control of the business. This can serve as an incentive for debtors to act in a timely manner and to take steps before actual insolvency to conduct a workout or, if necessary, commence a restructuring procedure (Predstečajni postupak). However, from the date of the submission to open a restructuring procedure until the court decides to open the procedure, the debtor cannot request temporary protection measures to prohibit enforcement over its assets (Article 30). This creates a disincentive towards opening the restructuring procedure. A stay is only available after the restructuring procedure is opened.

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

Under the Insolvency Law there are two reorganisation procedures: the restructuring (pre-insolvency) procedure (Predstečajni postupak) and the bankruptcy plan under the bankruptcy reorganisation procedure (Stečajni postupak).

The 2022 amendment of the Insolvency Law introduced 'prevention of insolvency' as one of the key objectives of the reorganisation procedure (Article 2) with a focus on early warnings (Article 7.a). Additionally, the 'pre-insolvency' is now called the 'restructuring plan'. Click **here** for an overview of these procedures.

For large companies meeting the requirements of systemic importance, the Act on Extraordinary Administration Procedure in Companies of Systemic Importance applies.[4] The entry conditions include: more than 5,000 employees (on average over a calendar year, including employees of affiliates), and a total debt (including the debt of affiliates) of HRK 7,500,000,000 (approx. €1 billion) or more.

Restructuring procedure

This is a court-supervised reorganisation procedure.
A restructuring plan may be proposed and agreed with creditors and may include measures for financial as well as operational restructuring of the debtor's business (Articles 21 to 27). The aim of the restructuring procedure is to rescue the debtor's business.

The debtor can commence the restructuring procedure (Article 25) and has the right to present a restructuring plan (Article 26.a). The reorganisation procedure can be initiated when there are certain signs that the debtor will not be able to fulfil its obligations in a timely fashion and the debtor is threatened with bankruptcy. This is established if it is likely that the debtor will not be able to meet its existing payment obligations as they fall due (Article 4). If restructuring proceedings have been initiated, the initiation of bankruptcy proceedings is not permitted until the restructuring proceedings have been completed (Article 15 (2)).

Bankruptcy reorganisation procedure

The bankruptcy procedure can take place if the insolvency of the debtor has been established, either on the grounds of over-indebtedness (balance sheet insolvency) or inability to pay (cash flow insolvency) (Article 5). Inability to pay exists if the debtor cannot fulfil its obligations on a permanent basis (Article 6). The

[4] This procedure has only been applied once in the case of Agrokor, a large conglomerate centred on agriculture.

bankruptcy procedure can be commenced by the debtor and, under certain conditions, by creditors and secured creditors (Article 109). In certain circumstances, the Financial Agency also has the right and the obligation to apply for opening of the procedure (Article 110). If bankruptcy proceedings have been initiated, restructuring proceedings cannot be commenced (Article 15(3)).

The bankruptcy procedure may be carried out through the liquidation of the debtor's assets and subsequent satisfaction of creditors or, alternatively, through the implementation of a bankruptcy plan. The debtor can file a bankruptcy plan together with its motion for opening the bankruptcy reorganisation procedure. However, once the procedure has been opened, the bankruptcy plan can only be filed by the bankruptcy administrator (Article 304). The bankruptcy plan may include measures of financial or operation restructuring, such as maintenance of all or part of the debtor's assets to continue the business and the transfer of all or part of the assets of the debtor. The plan may also determine the settlement arrangements for creditors, including a reduction or postponement of payment obligations (Article 303).

To what extent is the court involved?

Both reorganisation procedures are fully court-supervised.

Restructuring procedure

The procedure is commenced on application to the competent commercial court. The court must decide whether to accept or reject the application (Article 33). The court mainly supervises the procedure and decides on matters arising during the procedure if no other body has been assigned the power to do so (Article 22). The court also decides: on whether or not to confirm the restructuring plan, taking into account the best interests test and the feasibility of the plan (Article 61); on cross-class cram down (Article 59); and on approval of any new financing (Article 62.a).

Bankruptcy reorganisation procedure

Like the restructuring procedure, this procedure is also commenced on application to the competent commercial court, which either accepts or rejects the application.

The court will dismiss the bankruptcy plan if: i) the rules on its filing and contents have not been respected and any deficiencies are not remedied within deadline set by court; ii) it is not likely that the plan would be accepted by creditors or confirmed by court; iii) the rights to be acquired by the involved parties, as envisaged by a plan that was filed by the debtor, cannot be realised (Article 317).

If the plan is not dismissed by the court, the court shall request the following parties to provide any comments on the plan: i) the creditors committee (if established); and ii) the bankruptcy administrator, if the plan was filed by the debtor simultaneously with the motion for opening the bankruptcy reorganisation procedure. The court can also invite the state authorities which are competent for the business of the debtor to provide their feedback on the plan. The deadline for provision of feedback is set by court and it cannot be longer than 15 days (Article 318).

The court then supervises the procedure and makes the decisions as set out in the law (Article 76). Disputes over claims in bankruptcy proceedings can be settled through a mediation procedure (Article 262). The Croatian Central Bank, the Croatian Financial Services Supervision Agency and a Ministry can also be involved in the procedure subject to the nature of the debtor (e.g., credit institutions, investment firms, manufacturer of arms).

Does the debtor remain in possession?

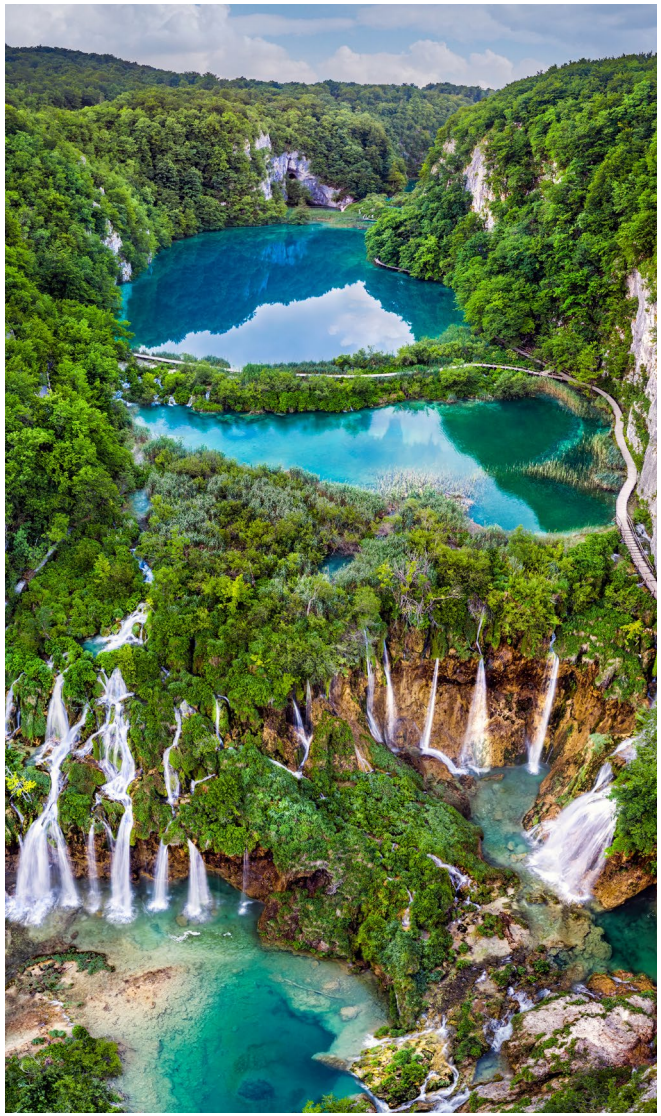
Restructuring procedure

Yes, during the procedure, the debtor remains in possession of its business and assets and can carry on its business activities. However, the debtor may only make payments if they are necessary within the ordinary course of business. This includes any payments on new credit obtained during the procedure (Article 67). The debtor's activities are supervised by an insolvency practitioner known as a trustee (Article 24) who is appointed by the court by means of automatic selection. The debtor can propose a trustee when submitting the application for commencement of the procedure but this does not affect the result of the automatic selection. Creditors can request the replacement of the trustee (Article 23). The trustee assists the debtor in preparing a restructuring plan or in negotiations on the plan. The trustee further assumes partial management of the debtor's assets and supervises the operations of the debtor, in particular any disposal (alienation or encumbrance) of assets.

Bankruptcy reorganisation procedure

No, on commencement of the procedure, the right of the debtor to operate its business and make payments is terminated and is transferred to the insolvency practitioner, known as the bankruptcy administrator or bankruptcy trustee (Articles 159 and 216).

The duties of the insolvency practitioner include the assessment of the debtor's assets, the management of its business and the bankruptcy estate, as well as the liquidation of the estate and distribution of payments to creditors. Certain actions by the insolvency practitioner must be approved by the assembly of creditors, by the creditors' committee (if one is established) or by the court.



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

Restructuring procedure

The proposal for a restructuring must, among other things, include operational restructuring measures and financial restructuring measures, such as the reduction of the face value of creditors' claims and the reduction of applicable interest, along with the rescheduling of debt payments and/or the extension of any debt maturities. The plan must also include details of any new financing and a description of claims not affected by the restructuring plan. It must also include an explanation as to why the restructuring plan has a reasonable prospect of preventing the debtor's inability to pay and to secure sustainable business.

The plan does not affect: i) claims of employees and former employees as well as individual and collective rights of employees such as rights to collective negotiations and industrial actions, and notification and consultation rights; ii) claims based on intentionally committed prohibited acts; iii) fines for criminal offences and misdemeanours and costs of related procedures; iv) claims for support arising from family, parental, marital or personal relations; and v) qualified financial contracts (Article 66). The plan must not interfere with the rights of secured creditors (Razlučni vjerovnici) (Article 38) unless it is specifically stated in the plan. The rights of these creditors may be limited by the restructuring plan without their consent, but they may not be put in a worse position than the one in which there would be no plan and that bankruptcy proceedings were opened (Article 66). If the restructuring plan provides for debt to equity conversion, prior consent of the shareholders, as per the Companies Act, is required (Article 61 (3)). There is no maximum time limit for the implementation of the restructuring plan.

Bankruptcy reorganisation procedure

The bankruptcy plan includes preparatory measures and implementation measures (Articles 306 and 307). The preparatory measures are to be taken before the opening the bankruptcy proceeding. The implementation measures cover how the plan will impact the creditors. The plan can implement a debt to equity swap, the write off of debts, refinancing and extension of any existing debt maturities, a company merger and a transfer of assets (sale as a going concern) (Article 303). Creditors, based on the trustee's bankruptcy report, have the right to sell the debtor's assets as a whole instead of liquidating assets of the debtor on an individual basis (Article 235).

There is no maximum time limit for the implementation of the bankruptcy plan.

Is there any applicable stay or moratorium?

Restructuring procedure

Yes, after the court accepts and opens the restructuring procedure, an automatic moratorium arises which prohibits creditors from initiating new claims and suspends ongoing cases (Article 68 (1)).

There is also a ban on enforcement proceedings and enforcement of compulsory security established by order of the court (prisilno osiguranje) that lasts for 120 days and can be extended (see below). However, the moratorium does not apply to creditors with a right to separate settlement (secured creditors), creditors with exclusion rights, claims of employees arising out of employment relationships (for claims regarding salaries, severance pay, and damages due to work-related injuries or professional illness), security measures in criminal proceedings, tax proceedings for the determination of misuse of rights, and qualified financial agreements (Article 68 (4)).

Bankruptcy reorganisation procedure

Yes, on commencement of the procedure, all actions against the debtor's estate are prohibited (Article 169). Secured creditors are also bound by this moratorium, but creditors with exclusion rights (who are entitled to request that certain assets are excluded from the estate, e.g., a lessor) are not bound. Nevertheless, secured creditors are entitled to a separate settlement of their claims from the value of the secured assets, i.e. any proceeds from the sale of such assets paid to secured creditors less any costs of sale, with any residual value retuning to the debtor's estate (Articles 247 to 257). Any actions initiated by secured creditors prior to the opening of bankruptcy proceedings by the commercial court remain enforceable.

In the bankruptcy procedure, there is the possibility of a consensual or contractual partial standstill in court actions, which are subsequently continued at some point. These help to achieve a consent from the necessary threshold of creditors for a restructuring bankruptcy plan. This can be achieved on a case-to-case basis (in the bankruptcy procedure) and is sometimes subject to the prior approval of the general assembly of creditors or the creditors' committee (if one is formed) (Article 230 of the Insolvency Law and Articles 65, 66 and 69 of the **Enforcement Law**).

Is business continuity protected?

Restructuring procedure

Yes, business continuity is protected.

In a restructuring procedure, a creditor cannot terminate a contract where the termination could lead the debtor into financial difficulties (Article 67.a). Furthermore, a creditor under a bilaterally binding contract that was concluded before the opening of the restructuring procedure and which: i) is affected by the restructuring procedure; and ii) is not fully performed by either the debtor or the creditor at the time of the opening of the restructuring procedure, cannot terminate the contract. Such a creditor is also prevented from modifying the contract to the detriment of the debtor by referring to the fact that the debtor has not paid its debt.

Also a creditor under a bilaterally binding contract that was concluded before the opening of the restructuring procedure and which was not fully performed by either the debtor or the creditor at the time of the opening of the restructuring procedure cannot terminate the contract or in any other way modify that contract to the detriment of the debtor on the basis of certain grounds. Such grounds include: i) the filing of a motion for opening of pre-insolvency; ii) the filing of a motion for stay or suspension of enforcement; iii) the opening of pre-insolvency proceedings; or iv) the granting of a motion for a stay or suspension of enforcement, in each case with respect to the debtor (Article 67.a(2)). These provisions do not apply to qualified financial contracts.

Additionally, the debtor may, with the consent of creditors which together hold more than two-thirds of legally established claims, incur new financing to ensure business continuity during the restructuring proceedings (Article 62.a). If the approval threshold is met, the court will decide on the amount and the terms of such new financing and the deadlines for its repayment (Article 62.a(4)). Also, the debtor may, in the restructuring plan, envisage new financing by an existing or a new creditor which is necessary for the implementation of the restructuring plan and which does not unreasonably damage the interests of other creditors. In this case the creditor providing such new financing must be included in the restructuring plan as a participant (Article 62.a(6)).

Bankruptcy reorganisation procedure

There is limited protection for business continuity.

If bankruptcy proceedings are instituted against the debtor, the claims of creditors which have given the debtor new financing are settled up to the amount of the new debt before other bankruptcy creditors, except creditors of the first higher payment order (e.g. preferred creditors) (Article 138). Such new financing is protected from avoidance actions in a subsequent insolvency proceeding. However, the court can, by virtue of its powers, withhold confirmation of the restructuring plan if the implementation of the plan foresees new financing that unjustifiably damages the interests of creditors, or if there are clearly no reasonable prospects that the plan could prevent insolvency or ensure business continuity (Article 61).

In a bankruptcy procedure a lessor cannot terminate a lease contract because the debtor has become insolvent and applied for bankruptcy (Article 190).

However, in the bankruptcy procedure, there is no wider protection for essential contracts which are necessary for the continuation of the business, and no general protection against third-party termination of contracts due to the debtor entering into the procedure. The restructuring plan does not affect the claims of employees and former employees, or the individual and collective rights of employees, such as the rights to collective negotiation and industrial action, along with notification and consultation rights. These are considered to be preferred claims (Article 66). At the reporting hearing of the bankruptcy procedure, the trustee can decide to continue with those activities necessary to prevent losses and preserve the jobs that the trustee determines are useful (Article 217). If a bankruptcy proceeding is subsequently opened against the debtor, the claims of creditors based on temporary financing or new financing will be settled in priority before other bankruptcy creditors, except for the creditors of the first higher payment order (preferred creditors, e.g. employees and former employees, and social or tax authorities) (Article 62.a).

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

Restructuring procedure

Yes, the law recognises separate classes of creditors for voting purposes. The proposal for a restructuring plan must include an offer to group creditors into classes in accordance with the rules on classification of creditors applicable to the bankruptcy plan (Article 27 (12)). Each group of creditors has the right to vote separately on the plan. Creditors of the same class have the same rights and will be settled in proportion to their claims (Article 59 (1)).

Bankruptcy reorganisation procedure

Creditors need to be grouped into separate classes for voting purposes (Article 308). According to Article 308, the classes are as follows: creditors who are entitled to separate settlement (i.e., secured creditors and with separate settlement rights), where the insolvency plan interferes with their rights; ordinary (unsecured) creditors; insolvency creditors of lower ranking (subordinate creditors), where their claims are treated as set out in Article 311 (1); and workers' claims. Also, creditors with small claims can be classified in a special group.

Additional groups may be created based on the commonality of economic interests of these creditors. However, if the effects of the plan are the same on all the insolvency creditors, the creditors will not be classified as separate groups. Each group of creditors with the right to vote is required to vote separately on the plan (Article 329). A restructuring plan needs to contain an indication of claims which, according to the law, are not affected by that plan. The debtor is not entitled to choose who will or will not be affected (Article 27 (15)).

What are the majorities required to approve a reorganisation plan?

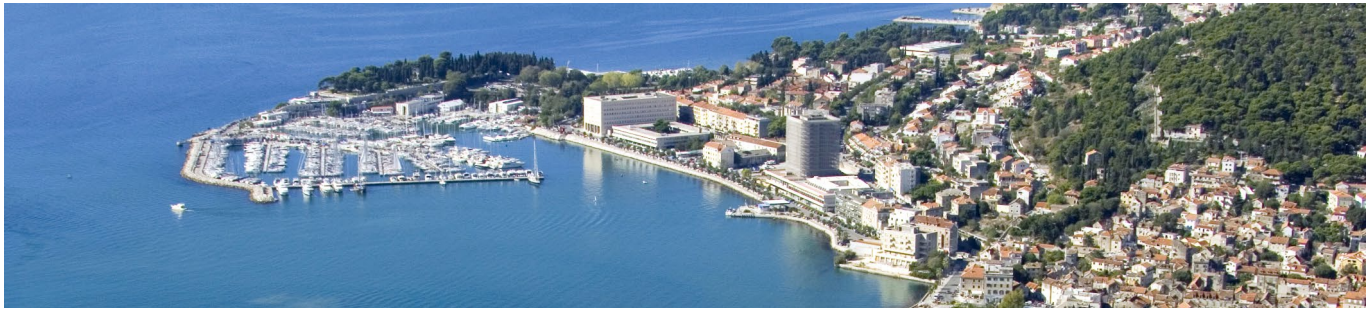
Restructuring procedure

The restructuring plan is deemed to be approved if each class accepts the plan and the total claims of consenting creditors in each group exceeds twice the sum of the claims of dissenting creditors (Article 59). Connected parties and shareholders, in their capacity as creditors of the debtor, can participate in the voting process provided that their claims have been recognised and determined by the court in its decision on determined and disputed claims (Articles 55, 126, 323 and 324).

However, if the required majority has not been achieved in a certain class of creditors, and all other prerequisites for confirming the restructuring plan have been met, at the debtor's proposal or with the consent of the debtor, the dissenting class will be considered to have accepted the plan. The court will confirm the restructuring plan if the following conditions are met: i) the creditors of the dissenting class are not in a worse position under the restructuring plan than they would have been in the absence of a restructuring plan; ii) the creditors of the dissenting class adequately participate in the economic benefits that should accrue based on the restructuring plan; and iii) the majority of the classes have accepted the restructuring plan with the required majority and iv) at least one of the classes that voted in favour of the plan is not composed of shareholders or subordinated creditors listed in Article 139.

A creditor is not considered to have voted in favour of a restructuring plan that is proposed to creditors during pre-insolvency restructuring proceedings if they did not actively participate in either supporting or opposing it (Article 58).

The confirmed restructuring plan binds creditors which did not participate in the proceedings and creditors which were involved in the proceedings where their contested claims



were subsequently established (Article 62). It does not affect creditors with rights of separate satisfaction rights (secured creditors), unless the plan expressly provides otherwise and such creditors agree.

A dissenting creditor can appeal the decision of the plan's confirmation before the high commercial court if such creditor has: i) objected to the plan during the voting procedure; ii) voted against the plan; and iii) it is probable that the creditor is in a worse position due to the plan than it would have been in the absence of a plan, where the statutory payment order envisaged for bankruptcy would have applied. The appeal does not suspend the implementation of the plan, but the court may also decide that the implementation be fully or partially suspended to prevent grave and irreparable damages to the appealing participant which exceed the advantages of an immediate implementation of the plan (Article 61.b).

The restructuring plan can provide that its implementation is supervised by the court and the trustee (Articles 62 (4) and 346).

Bankruptcy reorganisation procedure

The bankruptcy plan is deemed to be accepted if a majority of creditors in each class voted in favour of the plan and the sum of the claims of consenting creditors exceeds twice the sum of the claims of dissenting creditors. Creditors whose rights are not affected by the plan are deemed to have accepted the plan (Article 330).

The plan may be approved by cross-class cram down, applying the same rules explained above (Article 331) that is: i) the creditors of that class are not put in a worse position by the bankruptcy plan than the one they would be in if there were no bankruptcy plan; ii) the creditors of that class adequately participate in the economic benefits that should accrue based on the bankruptcy plan; and iii) the majority of the classes have accepted the bankruptcy plan with the required majority and at least one of the classes that voted in favour is not composed of shareholders or subordinated creditors listed in Article 139.

Appropriate participation of the dissenting class in economic benefits based on the bankruptcy plan is deemed to exist if: i) no creditor receives benefits exceeding its claim; ii) creditors of the dissenting class are at least in the same position compared to other classes of creditors whose claims would be in the same payment order in the absence of a bankruptcy plan; iii) creditors of the dissenting class are in a better position than the classes of creditors whose claims would be in a lower payment order in the absence of a bankruptcy plan; and iv) the debtor and shareholders do not receive any benefits unless their participation in the bankruptcy plan, for the purposes of managing business operations, would be necessary for the fulfilment of the bankruptcy plan (Article 331(2)).

The bankruptcy plan binds all creditors which participated in the procedure (Article 340). However, as with the restructuring plan, the bankruptcy plan cannot interfere with the rights of creditors with separate satisfaction rights (secured creditors), unless the plan expressly provides otherwise, and such creditors agree (Article 309).

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

Restructuring procedure

The debtor should file for a restructuring procedure before the insolvency conditions are met.[5] The judge should decide on the admissibility of the procedure within eight days upon the receipt of a completed petition (Article 31). If a restructuring plan is not submitted simultaneously with the petition for commencement of the restructuring proceedings, the debtor has 21 days to submit a plan after the validation by the court on the admissible claims (Article 26 (2)). Voting on the plan should be conducted 30 days after the decision on claims became validated. The voting can be postponed for another 8 days, or for 15 days if some creditors voted against the plan and the debtor wants to change it (Articles 55 and 61). This must be completed no later than 120 days from the date of opening of proceedings. At the proposal of the debtor, a creditor or the trustee, the court may extend the period by a further 180 days if it considers that progress has been made in the negotiations and that there is the likelihood that the pre-insolvency restructuring procedure will be successfully completed (Article 63). At the proposal of the debtor, the court may extend the period by a further 60 days if it considers that this would be appropriate for the conclusion of a pre-insolvency restructuring plan (Article 63). The moratorium lasts for the duration of the procedure.

The ban on enforcement proceedings and enforcement of compulsory security established by order of the court lasts for 120 days. Before the expiry of the period, the court in the restructuring procedure may, at the request of the debtor, creditor or trustee, extend the duration of the ban on enforcement (and insurance) proceedings twice up to an additional maximum period of 90 days, provided that relevant progress has been made in the negotiations on the restructuring plan and the ban is necessary in order to realise the restructuring plan. The ban is automatically lifted after this period, so there are major incentives to complete the restructuring within the prescribed periods.

Bankruptcy reorganisation procedure

There is no maximum timeframe for the procedure and no individual timeframes within the procedure. The moratorium lasts for the duration of the procedure.

Does the insolvency legislation facilitate cross-border insolvency?

Yes, cross-border insolvency is regulated in Title XI of the Insolvency Law (Articles 391 onwards). Croatia has jurisdiction over debtors that have a central place of business in Croatia. Article 403 regulates the requirements on how foreign decisions are to be recognised under Croatian Law.

Croatia has not officially adopted any of the UNCITRAL Model Law (see below). However, as a member of the European Union, Croatia is subject to **Regulation (EU) 2015/848** on insolvency proceedings, which governs the coordination of insolvency proceedings within the EU.

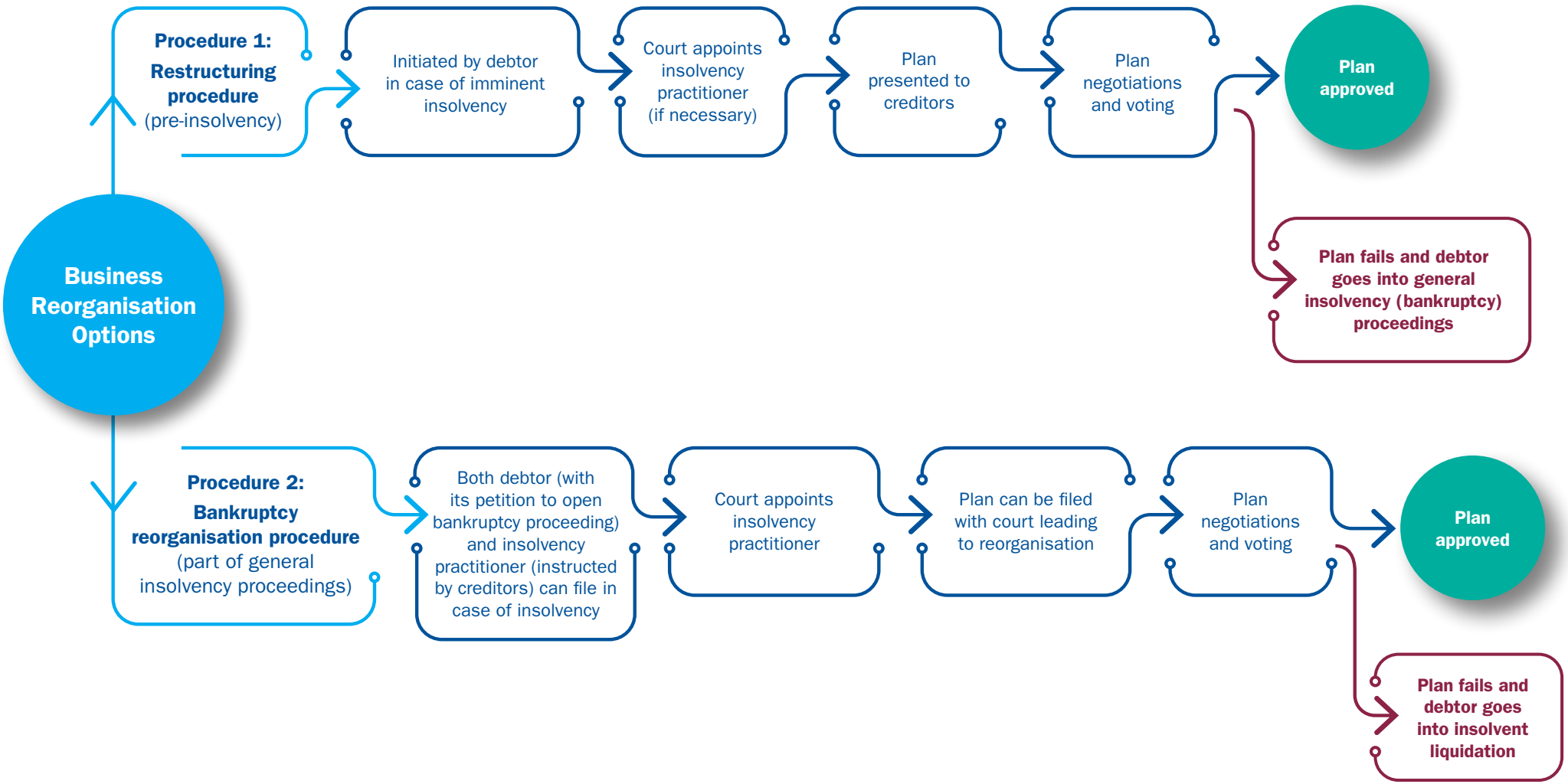
Are there any special provisions for (M)SMEs?

No, there are no special provisions for MSMEs in the restructuring procedure or in the bankruptcy procedure.

Model Law	Official adoption
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)	✖

[5] This is not expressly provided by the Insolvency Law but Croatian courts have ruled that way in a number of cases.

Overview of Croatian 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.

Contact

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

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