

Table 3:

Analysis of respondents' feedback on emergency insolvency/bankruptcy measures and their content



European Bank
for Reconstruction and Development



This Annex was produced by the European Bank for Reconstruction and Development (EBRD) Legal Transition Programme, as part of the EBRD Covid-19 Emergency Measures Survey which complements the 2022 EBRD Business Reorganisation Assessment.

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Information in this table is based on the review of the answers received in connection with question 4 and 5 of the EBRD Covid-19 Emergency Measures Survey and research of the relevant legislation. This table reflects the legislative position as of April 2022. When a law, regulation or measure is marked as “still in force” this refers to the period until April 2022. Information provided by local counsel respondents has not been independently verified by the EBRD. Responses are based on original text provided by respondents. In some cases response have been edited by the EBRD for clarity.

Question 4: “Please provide the following details:

- The date of adoption and title of the legislation and any link if available online (preferably to official publication)
- A brief overview of the nature of the legislation, including parties affected and any limitations on initiation of bankruptcy/insolvency proceedings
- The end date of the legislation
- Please add any further observations or comments as applicable”.

Key:  Yes  No
 Yes but subject to limitations

Question 5: “Did the emergency legislation result in any stay or moratorium on insolvency/bankruptcy filings by creditors?”

Economy	Content of the insolvency/bankruptcy emergency legislation	Did the emergency legislation result in any stay or moratorium on insolvency/bankruptcy filings by creditors?
Armenia	The adoption of the Law was caused by the deterioration of the solvency of economic entities as a result of the negative effects of the Covid-19 pandemic on the economy. The minimum threshold of the debtor’s monetary payment liabilities has been increased from 1 million AMD to 2 million AMD. In addition, the minimum period for the delay of payment in case of compulsory bankruptcy has been extended from 60 days or more to 90 days or more.	
Belarus	As per the Edict of the President of the Republic of Belarus No. 143 “On Support of Economics” a general relief from subsidiary liability imposed before 25 February 2018 on persons directly associated with management/control over insolvent debtor (CEOs, shareholders, chief accountants, etc.) (para. 23 of the Edict 143) was granted. The courts were instructed to reconsider subsidiary liability cases where subsidiary debtors still had outstanding debts to be paid to creditors of the bankrupt. In most cases the courts released subsidiary debtors from the remaining repayment obligations.	
Croatia	As per the Act on Conducting of Enforcement over Monetary Funds, as amended, there was a suspension of enforcement over funds (bank accounts) against natural persons (with some exceptions) for the duration of ‘special circumstances’ such as Covid-19. No default interest accrued during this time. The Act on Intervention Measures in Enforcement and Bankruptcy Proceedings During Special Circumstances expanded the categories of subjects covered by the enforcement stay and determined that the bankruptcy reasons occurring during special circumstances cannot be used as a ground for the opening of bankruptcy.	

Economy	Content of the insolvency/bankruptcy emergency legislation	Did the emergency legislation result in any stay or moratorium on insolvency/bankruptcy filings by creditors?
Czech Republic	<p>As per Lex Covid i) there was a suspension of the debtor's duty to file for insolvency for a period of six months after the termination or cancellation of extraordinary measures, unless the debtor was already insolvent prior to the state of emergency; ii) creditors' petitions for insolvency filed for a temporary period up to 31 August 2020 were not admitted; and iii) the debtor could file an application for an extraordinary moratorium.</p> <p>Lex Covid II extended the suspension of the debtor's obligation to file an insolvency petition due to bankruptcy until 30 June 2021 and extended the time period within which the entrepreneur could benefit from the extraordinary moratorium. The extraordinary moratorium was available until 30 June 2021. For a limited time period, the sale of property in enforcement proceedings was suspended.</p>	✓
Estonia	<p>The Bankruptcy Act was amended by inserting the additional paragraph 193-2 according to which the term of the obligation of the debtor to file a bankruptcy petition provided by law was suspended for the period from the beginning of the state of emergency until two months after termination of the state of emergency. This suspension of the debtor obligation does not have any effect on creditors' rights. Therefore, creditors were entitled, at the aforementioned time, to file a bankruptcy petition against the debtor.</p> <p>Paragraph 193-2 also amends the rules about the period of time where the transaction was concluded and thus subject to avoidance actions. Paragraphs 110-114 of the Bankruptcy Act stipulate a period of time, when the transaction shall be subject to the enforcement of avoidance if other circumstances for enforcement of avoidance stipulated by the Bankruptcy Act are also fulfilled. § 193-2 suspends these terms, which means that if the transaction was concluded before the state of emergency, the period of state of emergency shall be added to the terms stipulated in paragraphs 110-114 of the Bankruptcy Act and thus no avoidance action can be brought forward on these grounds.</p>	✗

Economy	Content of the insolvency/bankruptcy emergency legislation	Did the emergency legislation result in any stay or moratorium on insolvency/bankruptcy filings by creditors?
Hungary	<p>Government Decree No. 47/2020 and Act CVII introduced i) a payment moratorium (as extended) until 30 June 2021 with respect to all credit facilities, loans and financial leases, including principal, interest or fees ii) a suspension of any periodic debt service obligations during Covid-19 and iii) prohibition of unilateral termination of contractual agreements during Covid-19;</p> <p>Government Decree No. 57/2020, Governmental Decree No. 112/2021, and Act LVIII introduced a suspension of enforcement proceedings until 23 May 2021;</p> <p>Governmental Decree No. 74/2020, Act LVIII and Governmental Decree No. 112/2021 introduced measures encouraging the use of virtual means (e.g. electronic filings, virtual court hearings);</p> <p>Act LVIII raised the minimum debt requirements for creditors to initiate insolvency procedures during Covid-19 from HUF 200,000 to HUF 400,000 (approx. EUR 1,060) and extended the period open to settle creditors' claims by the debtor before the creditor is able to initiate liquidation proceedings;</p> <p>By Government Decree 179/2021 the legislator introduced a new reorganisation procedure, available until 18 June 2021 to improve the financial situation of companies having suffered huge loss due to the Covid-19 pandemic. The availability of the procedure was extended by Government Decree 345/2021 until 1 June 2022 and by Act XCIX until 31 December 2022. The procedure was an extraordinary measure helping the debtor to continue its operation by reaching an agreement with creditors involved in the procedure within the framework of a reorganisation plan. This procedure could only be initiated by the debtor itself and the precondition of such proceeding is the situation of imminent insolvency. The debtor could decide which creditors to involve, however if the debt was overdue, the relevant creditor should be involved. During the procedure, contractual partners of the debtor providing continuous services or supply of goods could not terminate their contracts or unilaterally modify them in any way on terms less favourable to the debtor solely on the ground that a reorganisation has been decided, ordered or a moratorium has been imposed, provided, that the debtor declared that it can pay for the goods or services. Involving a reorganisation expert, which could only be a certain Hungarian company (Nemzeti Reorganizációs Nonprofit Korlátolt Felelősségű Társaság), was mandatory.</p> <p>The court could impose a moratorium of 90 days (extendable by 60 days), applicable only in relation to the creditors that are involved in the procedure. During such period, the debtor's executive officer may only make legal declarations or commitments relating to the assets of the debtor or its economic activities that go beyond the scope of day-to-day management with the expert's prior written consent. The debtor and its creditors may include any tool in the plan which they find appropriate for the reorganisation of the company, e.g. new financing, debt relief or rescheduling. The procedure may either be confidential or public. One of the main differences between a confidential and a public procedure is that in the case of a confidential reorganisation, no cram-down of dissenting creditors can take place, while it is a possibility in public reorganisations if the reorganisation plan is accepted by creditors representing at least 60% of the creditors' votes. A successful reorganisation concludes with the approval of the reorganisation plan by the creditors and then by the court with a maximum of two years for implementation. However, an unsuccessful reorganisation does not automatically turn into a liquidation proceeding.</p>	<p style="text-align: center;">  due to extension of the period for the debtor to settle its debts </p>

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Kazakhstan	<p>As per the Resolutions of the Government of the Republic of Kazakhstan on suspension of initiation of bankruptcy proceedings” No. 443 and No. 265 court filings on initiation of bankruptcy proceedings made by creditors represented by state bodies and entities of the quasi-public sector were suspended from 11 May 2020 to 1 October 2020 and from 4 March 2021 to 1 July 2021. The adoption of the resolution did not result in a ban on initiating bankruptcy proceedings at the request of the debtors themselves and (or) other creditors (including international financial organisations and second-tier banks).</p>	✓
Latvia	<p>The Law on the Suppression of Consequences of the Spread of Covid-19 pandemic introduced multiple measures with different timelines:</p> <ul style="list-style-type: none"> - From 22 March 2020 until 1 September 2020 and from 23 December 2020 until 1 September 2021, creditors were prohibited from submitting an application for insolvency proceedings of a legal person; - From 23 December 2020 until 31 December 2021, the debtor was not obliged to file an application for insolvency proceedings, even if the relevant preconditions exist, unless the debtor has not paid the employee in full for any compensation for damage due to an accident at work or occupational disease or has not made the mandatory state social insurance contributions within two months from the date specified for the payment of wages; - From 5 April 2020 until 30 June 2021, after receiving an application from the debtor, the court had the right to decide to postpone the terms of payments to creditors included in the debt discharge plan within the insolvency proceedings of a natural person, while extending the term of the debt discharge proceedings for the relevant period; - From 5 April 2020 until 30 June 2021, in cases where an application for approval of a plan of measures of legal protection proceedings or amendment thereof has been submitted, the maximum allowed term for implementation of legal protection proceedings was extended, stating that it shall be no longer than four years from the date of entry into force of the court decision. If the term for implementation of the legal protection process was already extended, then from 5 April 2020 until 1 September 2020 and from 23 December 2020 until 30 June 2021 the term of implementation of legal protection proceedings could be extended by one year if the majority of creditors agreed; - From 5 April 2020 and still in force as part of permanent legislation, the application for restructuring, insolvency proceedings of a legal person and natural person may be submitted electronically; - From 5 April 2020 and still in force as part of permanent legislation, creditor committee meetings could be held remotely. 	✓
Lithuania	<p>The Law on the impact of the consequences of the new coronavirus on the application of the Law on Insolvency of Legal Entities could apply if the following two conditions were met: i) the legal person has encountered financial difficulties and has become insolvent due to the Covid-19 pandemic and ii) the legal person suffered financial losses and became insolvent after 16 March 2020.</p> <p>The protections introduced by the Law included:</p> <ul style="list-style-type: none"> - suspension of the director’s obligation to apply to the court for insolvency proceedings for the duration of the quarantine and for 3 months after the quarantine is lifted; - restriction of the right of creditors to apply to the court for insolvency proceedings for the period of the official quarantine; - the restructuring proceedings cannot be terminated during the quarantine period and for a period of 3 months after it is lifted, even if the plan is not properly implemented. 	✓

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North Macedonia	<p>According to the Government Decree, bankruptcy proceedings shall not be initiated against the legal entities that meet the conditions for bankruptcy for the duration of the state of emergency as well as three months after the end of the state of emergency. The bankruptcy proceedings that were already initiated, shall be suspended during the state of emergency as well as three months after its completion.</p>	
Poland	<p>As per the Act on special solutions related to the prevention, counteraction and combating Covid-19, other infectious diseases and emergencies caused by them, there is no obligation to file for bankruptcy if the basis for the declaration of bankruptcy of the debtor arose during the period of the epidemic threat or the state of epidemic announced due to Covid-19. The debtor or its creditors are still entitled to file this application</p> <p>The Act on interest subsidies for bank loans granted to entrepreneurs affected by Covid-19 and on simplified proceedings for approval of an arrangement in connection with the occurrence of Covid-19, introduced a new, simplified restructuring procedure, enabling the conclusion of an arrangement with creditors mainly out-of-court. Pursuant to these provisions, the debtor had 4 months from the date of the public announcement on the commencement of the proceedings to file before the court an application for approval of the arrangement concluded with the creditors. At that time, any pending enforcement proceedings regarding the liabilities included in the arrangement were suspended. The commencement of new enforcement proceedings and the execution of the decision securing the claim or order of security was prohibited. The debtor was also protected against the termination of certain contracts. The debtor could publicly announce the opening of these proceedings until 30 November 2021. As of 1 December 2021 features of the simplified restructuring proceedings were transposed to the existing reorganisation procedures.</p>	 due to closure of courts
Romania	<p>As per Decree no. 195/2020, during the state of significant emergency, judicial activity was suspended except for urgent cases. In such a case, if the petition for insolvency was submitted, the court could temporarily stay any enforcement proceedings commenced against the insolvent debtor if its assets would be endangered. Nevertheless, statutes of limitations and pre-emptive terms should not start to run (and if they have started to run, shall be suspended) for the entire duration of the state of emergency.</p> <p>As per Government Emergency Ordinance no. 70/2020, directors were no longer obliged to file for their company's insolvency during the state of emergency.</p> <p>As per Law no. 55/2020: i) directors were no longer obliged to file for their company's insolvency during the state of emergency, ii) the threshold for petitioning for insolvency (for both creditors and for debtors) was increased from RON 40,000 to RON 50,000 as long as the insolvency status was the result of temporary or permanent suspension of a debtor's activity due to the state of emergency and alert measures, iii) creditors could file for insolvency for their debtors during the state of emergency only if they could document an attempt to conclude a payment agreement with the debtor, which failed, iv) debtors could file for insolvency during the state of alert even when more than 50% of the total debt represents taxes owed to the Romanian state, v) enforcement proceedings against debtors under insolvency proceedings were no longer allowed, even in cases where an enforcement writ was available, vi) the period for payments under the preventive concordat was extended by two months, vii) observation periods (between entering insolvency and reorganisation or bankruptcy) were extended by three months, viii) deadlines for submitting the reorganisation plan were extended by three months, ix) reorganisation plans could be amended when the proposed or approved plan had been affected by Covid-19 pandemic measures. An amended reorganisation plan might be submitted within three months in these cases, and x) already pending reorganisation periods could be extended provided the reorganisation period did not exceed five years.</p>	

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Russia	<p>RF Law No. 98-FZ, amending RF Law No. 127-FZ On Insolvency (Bankruptcy) authorised the Government to impose a moratorium on creditor initiation of bankruptcies to stabilise the economy in exceptional cases (a Moratorium). The Moratorium was adopted for 6 months and was applicable to specific eligible debtors: i) entities and individual entrepreneurs who have suffered the hardest from the Covid-19 pandemic, ii) entities deemed systemically important for the state economy and iii) entities of strategic importance to the state economy. As per the Moratorium: i) Russian courts were obliged to reject creditors' involuntary bankruptcy petitions filed during the Moratorium and even if prior in case they were not yet formally accepted, ii) a creditor's notice of intent to file an involuntary bankruptcy petition entered into the Unified Federal Register of Bankruptcy Information during the Moratorium should not be published online until the Moratorium is over, iii) eligible debtors are no longer obliged to file voluntary bankruptcy petitions, iv) a competent authority (e.g., tax authorities) must wait to file an involuntary bankruptcy petition for mandatory payments (e.g., taxes) until 15 days after the Moratorium is over, v) set-offs on debtors obligations were not allowed, if this could harm the debtor's other creditors, vi) no penalties could accrue due to default on an eligible debtor's monetary obligations or mandatory payments, vii) enforcement procedures for claims that arose before the Moratorium were stayed and viii) the rules for calculating time periods/deadlines changed correspondingly, taking into account the duration of the Moratorium. Any eligible debtor may voluntarily withdraw itself from the list of eligible debtors.</p> <p>RF Law No. 166-FZ created a new concept of a judicial instalment plan for payment obligations in arrears as of the date of the initiation of the proceedings, as well as those stated to become due within one, two or three years, as applicable, from the date of the court's approval of the plan. During the life of the Moratorium, any eligible debtor who filed a voluntary bankruptcy petition and was at the so-called 'observation' stage (or in a debt restructuring procedure, in the case of an individual entrepreneur) could petition, as from the date of the first creditors' meeting, for the court to approve a judicial instalment plan. Conditions for plan approval and terms and conditions of the plan are described by the RF Law No. 166-FZ.</p>	
Slovak Republic	<p>The Act no. 62/2020 Coll. on Certain Emergency Measures in connection with the spread of the dangerous contagious human disease Covid-19 introduced the notion of temporary protections for businesses and entrepreneurs from 27 March 2020 to 31 December 2020. The same provisions were extended in time via Act no. 421/2020 Coll. on Temporary Protection of businessmen in financial difficulties from 1 January 2021 to 16 July 2022.</p> <p>Under the temporary protection status:</p> <ul style="list-style-type: none"> - the period within which the debtor is obliged to file for bankruptcy in the event of an extension that occurred between 12 March 2020 and 30 April 2020 is 60 days; - a debtor is entitled to temporary protection if there is a significant increase in overdue receivables or a significant decrease in its revenues compared to the same period in 2019; - the proceedings on the creditor's petition to declare bankruptcy on the property of the debtor under temporary protection filed after 12 March 2020 and any ongoing procedure are suspended; - the debtor is not obliged to file for bankruptcy; - execution proceedings initiated after 12 March 2020 are suspended; - the exercise of a lien cannot be commenced; - set-off is not possible; and - a counterparty cannot terminate, withdraw or refuse to execute a contract. 	

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Slovenia	As per the Act Determining the Intervention Measures to Contain the Covid-19 Epidemic and Mitigate its Consequences for Citizens and the Economy: i) a new presumption of insolvency was introduced, meaning that it shall be presumed (and counter evidence shall not be allowed) that a legal person, entrepreneur or a private-employed person has become insolvent also in case of delay in payment of salaries and social contributions to the employees more than one month following receipt of reimbursement of salaries and social contributions from the state on the basis of laws, which seek to preserve work posts in the context of the Covid-19 epidemic, ii) management's obligation to file for insolvency was suspended and iii) a stay on creditor's application to commence bankruptcy proceedings was introduced.	✓
Türkiye	As per the Presidential Decree No. 2279 all pending enforcement or debt collection and bankruptcy proceedings were suspended (with the exception of enforcement proceedings regarding alimony receivables) and prohibited the initiation of new enforcement and bankruptcy proceedings and implementing interim attachment orders for both corporates and individuals As per Omnibus Law No. 7226 (i) all time periods related to filing a lawsuit, initiating a debt collection proceeding, application, complaint, objection, notification, notice, submission, statute of limitation, foreclosure period, and mandatory administrative application periods, (ii) time periods determined by the laws and by the judges, (iii) time periods in mediation and conciliation and (iv) time periods determined by the judges or the debt collection and bankruptcy offices in debt collection and bankruptcy proceedings were suspended from and including 13 March 2020 until 30 April 2020.	✓
Ukraine	The Law imposed a moratorium for creditor-initiated insolvency cases triggered by a claim matured after 20 March 2020. The Law also introduced an e-voting process for creditors while some court deadlines were prolonged.	✓
Uzbekistan	As per art. 15 of the decree "On additional measures to support the population, economic sectors and business entities during the coronavirus pandemic," a moratorium was introduced until 1 October 2020 on initiating bankruptcy procedures and declaring bankrupt enterprises that faced financial difficulties due to restrictive measures introduced to counter the spread of coronavirus infection.	✓