

ALLEN & OVERY

In cooperation with Arzinger Homburger AG, Karanovic & Partners,
PHH Rechtsanwälte, Radu Tărăcilă Pădurari Retevoescu SCA
and Odvetniki Šelih & partnerji, o.p., d.o.o.






Covid-19 coronavirus measures impacting insolvency proceedings and enforcement

In the light of the Covid-19 pandemic, the vast majority of European countries have implemented various measures concerning insolvency proceedings, restructurings and rights of creditors generally. At the same time, the accessibility of insolvency courts and practitioners is rather limited. This document captures the recent developments and provides an overview of the situation in Europe. Since the measures are changing dramatically, certain information may become outdated.

Updated 24 June 2020

State of Covid-19 measures – insolvency proceedings and enforcement

Measures have been adopted predominantly in the most of European countries, however, further measures are being considered and adopted. In a number of jurisdictions the measures are resulting from the declared state of emergency. On the other hand, a number of countries is recently relaxing the measures adopted.

-  No measures adopted or contemplated
-  Measures being considered
-  Measures being adopted
-  Measures adopted, further measures may come
-  Jurisdiction currently not covered



Intensity of Covid-19 measures – insolvency proceedings and enforcement

Types and intensity of the measures adopted by European countries significantly differ, with the strongest measures being adopted in the most affected regions. Europe's north-western region is currently adopting or considering adoption of these measures.

■ Measures adopted ▨ Measures considered / being adopted

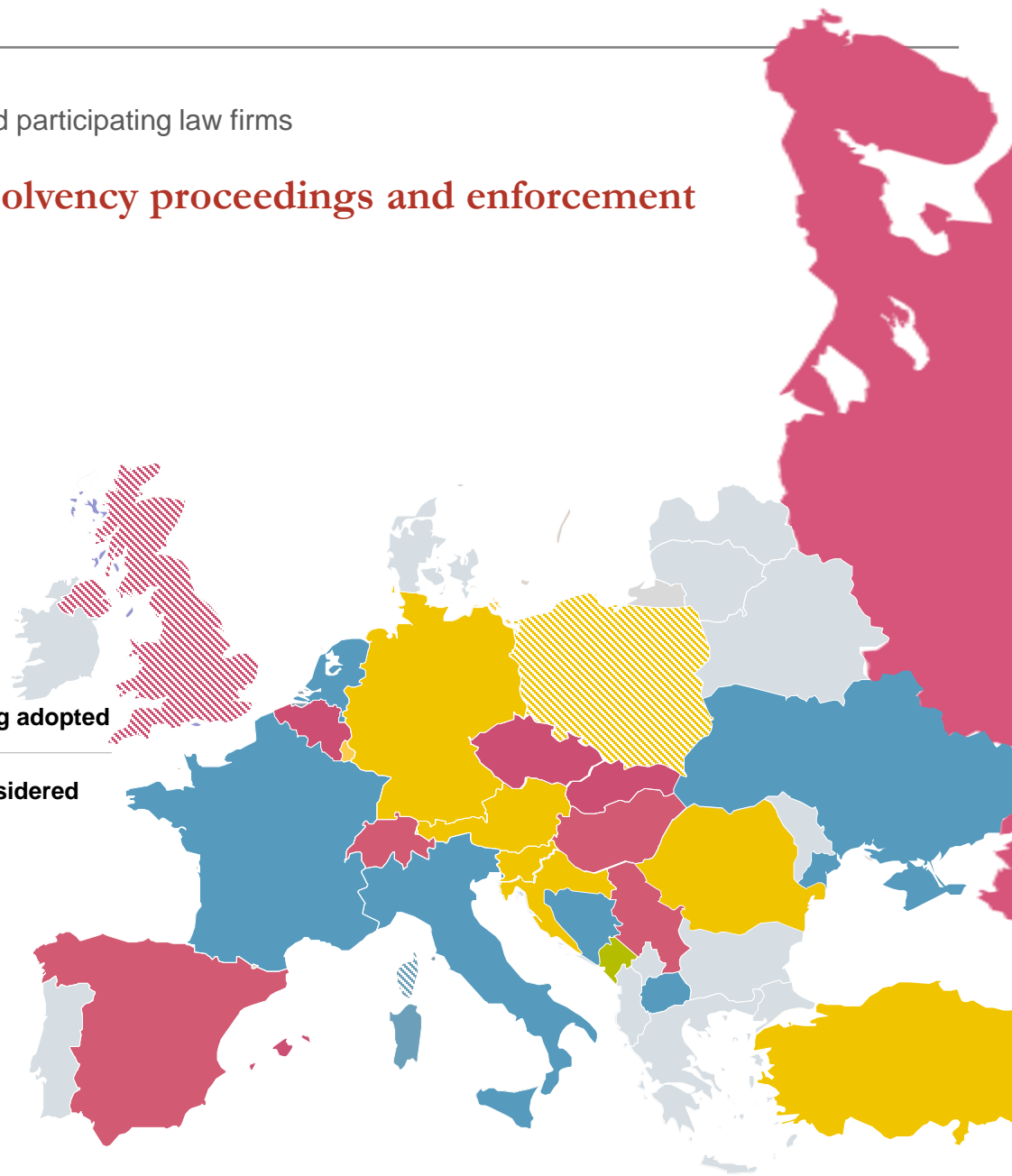
■ No measures in place nor being adopted or considered

■ ▨ Technical / organisational measures extending deadlines, postponing hearings, etc.

■ ▨ Temporary suspension of certain obligations (eg directors' duty to file for insolvency)






■ ▨ Moratorium / stay on enforcement and/or Insolvency filings, further complementary measures

■ Jurisdiction currently not covered



Operation of insolvency courts / administration during Covid-19 outbreak

With the exception of Hungary and Luxembourg, insolvency courts are generally open, however, hearings are suspended and procedural deadlines are postponed due to the state of emergency declared by many European countries.

-  Courts / administration fully operational with chance of minor delays
-  Courts / administration operational with chance of delays, prioritising urgent matters
-  Hearings / meetings postponed or limited to urgent matters with chance of delays, filings available
-  Courts / administration mostly closed or experiencing significant delays in proceedings
-  Jurisdiction currently not covered





Austria

Measures adopted:

- Periods for filing for insolvency if the business is insolvent (zahlungsunfähig) or over-indebted (überschuldet) extended from 60 to 120 days. As a consequence, companies which are affected by Covid-19 now have a maximum period of 120 days to file for insolvency, provided they can prove that the insolvency was caused by Covid-19.
- The obligation to file for insolvency due to over-indebtedness (Überschuldung) is suspended in the period between 1 March and 30 June 2020. In this period, the filing for insolvency is only required if the business is insolvent (zahlungsunfähig).
- Statutory liability of board members of joint stock corporations (Aktiengesellschaften) for payments (which would otherwise not be permitted) made after the occurrence of over-indebtedness in the period between 1 March and 30 June 2020 is suspended. It is not clear whether the same relief from liability is granted to managing directors of a limited liability company (Gesellschaft mit beschränkter Haftung).
- A deferral of social security contributions for the months of February, March and April 2020. In connection with this deferral, the Austrian legislator also stipulated that during this period, social security organisations (Sozialversicherungsträger) may not initiate insolvency proceedings in respect of companies that have outstanding social security contributions.
- Restrictions on the powers of the insolvency administrator to challenge repayment of certain loans prior to insolvency.
- Restrictions on the characterisation of shareholders loans as equity (eigenkapitalersetzende Darlehen) upon insolvency.

Measure being adopted / considered:

- None.

Operation of insolvency courts / administration:

- Insolvency courts still open with certain limitations, procedural deadlines (verfahrensrechtliche Fristen) in insolvency proceedings are not stayed any more, deadlines which were stayed commenced anew on 5 April 2020. Upon application, procedural deadlines may be extended by the insolvency court by up to 90 days.
- Hearings, trials, interrogations, creditor meetings and creditor committee meetings in insolvency proceedings may, under certain conditions, be held by way of video conference.

Related notes:



[Covid-19 legislative measures \(BGBl I 16\)](#)

[Covid-19 legislative measures \(BGBl I 24\)](#)



Belgium



Yves Van Pul
Allen & Overy (Belgium) LLP

Measures adopted:

- Temporary moratorium from 24 April 2020 up until (and including) 17 June 2020 (unless further extended by the federal government) that automatically applies for all enterprises whose continuity is threatened by the COVID-19 pandemic and which were not in a state of cessation of payments before 18 March 2020. Creditors who are of the opinion that its debtor does not qualify to benefit from the temporary moratorium can file a petition with the President of the Enterprise Court. The temporary moratorium includes the following measures:
- Temporary stay of bankruptcy proceedings, judicial winding up, and forced transfer under judicial supervision of whole or part of a company's activities;
- Protection of new credit provided during the moratorium against the hardening period in subsequent bankruptcy proceedings;
- Temporary stay of conservatory or executory attachments and means of enforcement for, in principle, all new and old debts of the company, both principal amounts and accrued interests. Exceptions apply for immovable property, financial collateral and seagoing and inland vessels;
- Temporary stay of dissolution of agreements on grounds of non-payment of a monetary debt that is due and payable. Exceptions apply for employment contracts; and
- Extension of the payment periods included in a homologated judicial reorganisation plan for a period equal to the duration of the temporary moratorium.

Measure being adopted / considered:

- New measures discussed on daily basis.

Operation of insolvency courts / administration:

- Courts remain formally open, subject to several measures to cope with the Covid-19 pandemic.
- Court hearings scheduled between 11 April 2020 up until (and including) 3 June 2020 (unless further extended by the federal government) are automatically replaced by written proceedings.
- Procedural terms that end in the period between 9 April 2020 up until (and including) 3 May 2020 (unless further extended by the federal government) are automatically extended with one month after the end of that period (currently 9 June 2020). In case of urgency, parties may request the competent Court for an exception to this rule.



Bosnia and Herzegovina



Milica Savić
Karanovic & Partners

Measures adopted:

- Suspension of deadlines in court proceedings during the state of natural and other disaster whereas the urgent court proceedings are exempted from the applicability of the suspension. Insolvency proceedings are not listed as urgent proceedings which are excluded from the suspension.
- In Republic of Srpska, in Bosnia and Herzegovina, the President adopted the Decree-Law, (pending confirmation in the Parliament) providing for the suspension of all deadlines related to criminal, contentious, non-contentious and administrative proceedings, explicitly excluding deadlines in the proceedings listed as urgent ones. Insolvency proceedings are designated as urgent by current legislation, but not explicitly included as proceedings with suspended deadlines or listed as those urgent proceedings excluded from the applicability of suspension. Until there is some clarification by the government, it is recommendable that all necessary actions within insolvency are taken within existing deadlines.
- In both Republic of Srpska and Federation of Bosnia and Herzegovina, it remains recommendable that all necessary actions within insolvency are taken within existing deadlines.

Measure being adopted / considered:

- On 30 April, the High Judicial and Prosecutorial Council of BiH adopted the Decision on Organisation of Work in Courts and Prosecutor's office in Bosnia (the „Decision“). Earlier restrictions were softened, leaving the possibility of scheduling new hearings and the continuation of the ongoing ones, provided that adequate social distance and protective equipment are provided in the court premises. In addition, when scheduling the hearings, it is necessary to consider the urgency and duration of the procedure and the number of participants. By adopting individual decisions, the courts in Bosnia and Herzegovina have already started implementing the outlined liberalization measures. It is unclear how this Decision correlates with suspension of deadlines.

Operation of insolvency courts / administration:

- Courts open without restrictions.

Related notes:



[Karanovic & Partners - Covid-19 updates](#)



Croatia

 **Milica Savić**
Karanovic & Partners

Measures adopted:

- Bankruptcy causes (i.e. insolvency, indebtedness), which occurred during the period of special circumstances, are not deemed as causes for initiation of the insolvency procedure over the debtor.
- As exception, proposals for initiation of the bankruptcy procedure may be filed only for protection of the homeland security, public health, environment etc.
- Even though not explicitly determined, it stems from the relevant legislation that the company's management is not obliged to file for insolvency if the bankruptcy cause occurred during the period of special circumstances.
- The measures are in force until 2 August 2020, with the possibility of prolongation for additional 3 months by the Croatian government.

Measure being adopted / considered:

- None.

Operation of insolvency courts / administration:

- Only emergency hearings are being held. In addition, Zagreb Commercial Court is still closed due damages caused by recent earthquake.

Related notes:



[Karanovic & Partners - Covid-19 updates](#)



Czech Republic

 **Robert Pavlů**
Allen & Overy (Czech Republic) LLP, organizační složka

Measures adopted:

- The following measures have been introduced:
 - temporary stay on obligation to file for insolvency;
 - stay on opening new insolvency proceedings; and
 - extraordinary moratorium of 3 months, available on application by the debtor if its business was affected by the Covid-19 coronavirus, with possible extension by additional 3 months with the consent of creditors.

Measure being adopted / considered:

- None

Operation of insolvency courts / administration:

- Insolvency courts are open and hearings are resuming, with certain limitations.
- Access to courts is restricted, however, filings are possible. Effectiveness of creditors' petitions for insolvency is temporarily suspended.



[Covid-19 coronavirus: Impending changes to Czech insolvency law](#)



France

 **Julien Roux**
Allen & Overy LLP

Measures adopted:

Insolvency proceedings measures

- A first Ordinance n°2020-341 on 27 March 2020 relating to insolvency proceedings was published on 29 March 2020 (**the First Insolvency Ordinance**) applicable immediately including to insolvency proceedings, which were ongoing at the time of publication. The main purpose of the First Insolvency Ordinance is to adapt on a temporary basis the procedures applicable to companies facing difficulties by (i) assessing the position of companies as of 12 March 2020 to appreciate insolvency situations (for a period ending on 24 August 2020), and (ii) extending the legal timeframe of some pre-insolvency proceedings and insolvency proceedings and (iii) adapting procedural rules and formalities (holding formal hearings may no longer be necessary for the court to take certain decisions and communications between the different persons involved in the proceedings can be made by any means).
- A second Insolvency Ordinance n°2020-596 dated 20 May 2020 was published on 21 May 2020 (**the Second Insolvency Ordinance**). The Second Insolvency Ordinance reinforces the protection of debtor in conciliation by adding the possibility for a debtor to seek, until 31 December 2020, in the course of conciliation, a moratorium (and a potential rescheduling of debt) up to the duration of the conciliation proceedings and in relation to any single creditor who failed to accept, within the time period fixed by the conciliator, a standstill on its debt claim during the conciliation proceedings. The Second Insolvency Ordinance also provides that (i) employees and turnover thresholds for the accelerated safeguard and accelerated financial safeguard are disappplied (facilitating the use of these proceedings), (ii) the time period during which creditors must respond to a consultation on a draft safeguard plan or rehabilitation plan is reduced from 30 to 15 days and (iii) those who make credit available during the observation period of a safeguard or reorganisation proceedings (or undertake to provide such credit for the purposes of the performance of the safeguard or reorganisation plan) shall benefit from a privilege ranking just after the new money privilege and cannot be imposed debt rescheduling or debt write-off.

Standstill on certain contractual obligations

- Measures of general application protecting debtors have been taken by Ordinance n°2020-306 of 25 March 2020 (as supplemented by Ordinance n° 2020-427 of 15 April 2020) allowing for the disapplication of certain sanctions for any non-performance, during a period of legal protection, by an obligor of its contractual obligations. These measures will have an impact on obligations owed to lenders. The measures apply to all contractual obligations (including payment obligations but excluding financial guarantees of article L211-36 of the Financial and Monetary Code) which must be performed during the period between 12 March 2020 and 23 June 2020 inclusive (the Period). According to the Ordinance, should a debtor be in breach of a contractual obligation during the Period, the following contractual clauses which purport to sanction such breach will be of no effect (i) payments ordered by way of penalty (*astreintes*) (ii) contractual penalty clauses (iii) termination clauses, and (iv) acceleration clauses. All types of creditors (French companies and individuals) and all types of creditors are concerned. The protective measures relate to any breach of a contractual obligation having occurred during the Period (i.e. between 12 March 2020 and 23 June 2020 inclusive), but the effect of the protective measures will last until 23 July 2020. The above contractual sanction clauses which have been set aside during the period of legal protection will become effective again on 24 July 2020 if the defaulting party has not performed, by then, its contractual obligations.

Measure being adopted / considered:

- None.

Operation of insolvency courts / administration:

- Based on the First Insolvency Ordinance (i) holding formal hearings may no longer be necessary for the court to take certain decisions and (ii) communications within the insolvency proceedings can be made by any means.
- French courts to prioritise the appointment of a *mandataire ad hoc* and the treatment of disposal plans in the context of reorganisation / liquidation proceedings when such plan may have a significant impact on employment.



Germany

 **Peter H. Hoegen**
Allen & Overy LLP

Measures adopted:

- Temporary stay on obligation to file for insolvency, effective retroactively from 1 March 2020 until 30 September 2020 (extension until 31 March 2021 possible without legislative process).

Measure being adopted / considered:

- None.

Operation of insolvency courts / administration:

- Insolvency courts open and issuing all necessary orders. In ongoing insolvency proceedings, courts try to make more use of written proceedings (ie without physical meetings), however, this is only allowed if the debtor's financial circumstances are comprehensible and the number of creditors or the amount of debt are low.
- It is not clear how courts will deal with creditors' meetings in bigger insolvency proceedings. Probability that 190 insolvency courts in Germany may handle this differently.

Related notes:



[Covid-19 Coronavirus: Temporary suspension of the obligation to file for insolvency proceedings](#)

[Covid-19 coronavirus: Access to new debt and equity during the corona crisis](#)

[Covid-19 coronavirus: The Covid-19 Act and its impact on real estate financings in Germany](#)



Hungary

 **Zoltan Lengyel**
Lengyel Allen & Overy Ügyvédi Iroda

Measures adopted:

- Temporary national moratorium
- Measures effective until 31 December 2020.

Measure being adopted / considered:

- Ongoing discussions regarding the financial effects of the moratorium. Further measures are possible.

Operation of insolvency courts / administration:

- The operation of all courts is temporarily suspended.

Related notes:



[Covid-19: Hungarian legislative measures](#)



Italy

 **Stefano Sennhauser**

Allen & Overy Studio Legale Associato

Measures adopted:

- Measures aimed at maintaining the business continuity:
 - Temporary national moratorium and other forbearance measures applicable to micro-enterprises and SMEs as defined under EU Recommendation of 6 May 2003 No. 361, which, although they had no deteriorated exposures (esposizioni deteriorate) as of 17 March 2020, have suffered from the effects of the Covid-19 outbreak. The following forbearance measures operate upon request of the relevant SME, accompanied with a self-declaration demonstrating a temporary liquidity shortfall:
 - prohibition to revoke uncommitted short-term facilities and factoring in place as at 29 February 2020 (or, if later, as at 17 March 2020) until 30 September 2020;
 - postponement of the repayment of bullet loans with a maturity falling prior to 30 September 2020 until such date; and
 - suspension of instalments in respect of loans and other financing repayable in instalments (including financial leases and loan granted through agricultural promissory notes) falling due before 30 September 2020 until such date. The suspension applies to both interest and principal or, alternatively, only principal if so requested by the relevant micro-enterprise or SME.
 - Banks, national and international financial institutions and other entities authorised to carry out lending activity in Italy may benefit from the guarantees made available by SACE up to an overall aggregate amount equal to euro 200 billion, to guarantee new loans granted in any form to companies based in Italy and affected by the Covid-19 outbreak (other than banks or institutions authorized to carry out lending). This measure will be effective until 31 December 2020.
 - From 9 April to 31 December 2020, as an exception to the ordinary rules:
 - both the recapitalisation obligations of companies and the obligation to wind-up companies due to the reduction of share capital below the minimum amount required by law are suspended; and
 - shareholders may grant loans, in any form whatsoever, to support companies without the risk of their claims being ranked junior to the claims of third-party creditors.
- Measures related to the insolvency proceedings:
 - Extension of deadlines and procedural terms for pre-insolvency workout agreements with creditors (concordato preventivo) and debt restructuring agreements (accordo di ristrutturazione dei debiti) and, under some circumstances, possibility for the debtor to amend/renew the underlying industrial and financial business plan.
 - Petitions for a declaration of bankruptcy or a declaration of insolvency filed (by third parties or by the company itself) during the period 9 March 2020 - 30 June 2020 are considered inadmissible (improcedibili) and, therefore, must be filed again after the end of that period. Under some circumstances, this measure does not apply to petitions filed by the public prosecutor.
 - Where petitions filed during the abovementioned period are declared inadmissible and bankruptcy follows, such period shall not be taken into account when calculating the time limits for bringing claw-back actions.

Measure being adopted / considered:

- None

Operation of insolvency courts / administration:

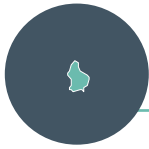
- All court hearings and meetings are postponed until after 11 May 2020 and any procedural deadline are stayed, with the exceptions of the subjects expressly indicated by the decree. Further to the expressed exceptions, based on individual valuations, the courts will deal also with proceedings deemed urgent that, if delayed, may cause serious damage to the parties.
- From 12 May 2020 to 30 June 2020, the Chairs of the court may adopt certain organisational measures (eg limiting access to the court and opening time of the offices; postponement of hearings after 30 June 2020) to reduce the spread of Covid-19.

Related notes:



[Covid-19 coronavirus: Urgent measures affecting civil litigation in Italy](#)

[Covid-19 coronavirus: The main measures for the credit sector in the Italian Government's recent decrees](#)



Luxembourg

 [Pierre Schleimer](#)
Allen & Overy SCS

Measures adopted:

- Temporary stay on obligation to file for insolvency, effective until the end of the state of emergency / further notice.

Measure being adopted / considered:

- Pursuant to the Luxembourg bill 7587 which purports to temporarily maintain some derogating measures related to deadlines in jurisdictional matters beyond the end of the state of crisis, it is currently contemplated to extend the suspension of the one-month period during which a (commercial) company or a tradesman must file for bankruptcy after it has ceased its payments for six months as from the date of the end of the state of crisis.

Operation of insolvency courts / administration:

- Courts open subject to restrictions resulting from the state of emergency (public hearings etc.).
- Subject to limited exceptions, procedural deadlines are suspended for the duration of the state of emergency.
- Given the limited capacity of the courts during the Covid-19 outbreak, the insolvency courts will prioritise urgent cases and delays in proceedings may occur.



Netherlands

 [Sigrid Jansen](#)
Allen & Overy LLP

Measures adopted:

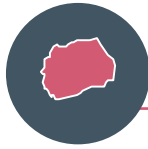
- De facto temporary stay on third party insolvency petitions.
- More critical assessment by courts of individual enforcement actions and attachments.

Measure being adopted / considered:

- Unknown as yet.

Operation of insolvency courts / administration:

- Only if matters are deemed urgent. Insolvency proceedings are generally to be regarded as such, but insolvency petitions by third parties are temporarily stayed and individual enforcement actions and attachments are more critically assessed by the courts.



North Macedonia

 [Milica Savić](#)
Karanovic & Partners

Measures adopted:

- Stay on the opening of new insolvency proceedings.
- Stay on the opening of preliminary procedures for opening insolvency proceedings and postponement of already initiated procedures. Most activities by enforcement agents have been suspended, with the exception of enforcement proceedings against funds on bank accounts initiated prior to 31 March 2020. The suspension of activities of enforcement agents shall apply for 30 days after the end of the state of emergency, i.e. until 22 July 2020.

Measure being adopted / considered:

- None.

Operation of insolvency courts / administration:

- The courts competent for insolvency matters handle only urgent cases; all other cases handle must be handled in accordance with the measures, decisions and protocols for prevention and spread of COVID-19.

Related notes:



[Karanovic & Partners - Covid-19 updates](#)



Montenegro

 [Milica Savić](#)
Karanovic & Partners

Measures adopted:

- Starting from 16 March 2020 until and including 30 March 2020, there was a specific work regime in all Montenegrin courts. Particularly, all hearings are postponed save for the ones in urgent matters, while urgency of the hearing is on discretion of competent judge / judge panel.
- As of 25 May 2020, regular working regime continued in all courts in Montenegro.

Measure being adopted / considered:

- None.

Operation of insolvency courts / administration:

- As of 25 May 2020, the Commercial Court of Montenegro, competent for insolvency matters, operates in usual working regime.

Related notes:



[Karanovic & Partners - Covid-19 updates](#)



Poland



Arkadiusz Pedzich

Allen & Overy, A. Peźzich sp. k.

Measures adopted:

- None.

Measure being adopted / considered:

- The Polish Parliament adopted the act counteracting the COVID-19 pandemic, which did not explicitly deal with bankruptcy and restructuring law. Although the legislative process regarding these changes has not yet been formally completed, it is expected that the unaltered changes will enter into force within the coming days.
- During COVID-19, there will be a statutory stay on the requirement to file for bankruptcy (similarly as in Germany and Spain). However, the stay will not apply to all companies under pressure but will be limited to companies which have experienced financial problems due to COVID-19. For companies becoming insolvent regardless of the pandemic, the general deadline to file will apply.
- Under the adjusted regulation, petitions for initiating in-court restructuring proceedings will be treated as high priority matters.

Operation of insolvency courts / administration:

- Since mid-March most courts have cancelled their hearing dates for March and April.
- The Covid-19 act extended the lockdown to all courts until the end of the pandemic (subject to minor exceptions).
- Polish courts have limited capacity and are currently resolving only urgent matters. Insolvency matters are not being treated as high priority matters, however, some courts have recently been operating efficiently in insolvency matters.
- Many courts have stopped issuing documents imposing procedural deadlines. The proposed act will suspend all court deadlines by law, while parties can still opt to meet them and exercise their rights and obligations.
- Access to courts is restricted, with some courts entirely closed. Many judges are out-of-office due to quarantine measures.

Related notes:



[Warsaw podcast: Covid-19 coronavirus: court restructuring](#)

[Warsaw podcast: Covid-19 coronavirus: out-of-court restructuring](#)

[Tips for companies with liquidity issues](#)

[Covid-19 coronavirus: Impacts on insolvency law matters and future actions to be taken](#)



Romania



Victor Padurari

Radu Tărăcilă Pădurari Retevoescu SCA

Measures adopted:

- As a result of a state of alert, several measures dealing directly with insolvency proceedings have been enacted. Prior to the current state of alert, a state of emergency was declared in Romania starting with 16 March 2020, which ended on 14 May 2020, but no specific insolvency related measures were enacted.
- During the state of alert, the insolvent debtor has the right, but not the obligation, to file for insolvency; the 30-day term within which the insolvent debtor has a legal obligation to file for insolvency now starts to lapse from the ending date of the state of alert.
- Creditors who wish to file for insolvency against an insolvent debtor which partially or fully ceased its activity as a consequence of the measures implemented during the state of emergency/state of alert must firstly attempt, in a reasonable manner, to negotiate with the insolvent debtor the conclusion of a payment agreement.
- Several deadlines provided under the Romanian insolvency law are extended (e.g. the period for the implementation of the reorganization plan which is undergoing as at 18 May 2020 is extended with two months, the overall duration of a reorganization plan with respect to an insolvent debtor which partially or fully ceased its activity as a consequence of the measures implemented during the state of emergency/state of alert may be prolonged up to 5 years).

Measure being adopted / considered:

- The government adopted an emergency ordinance and application norms allowing debtors affected by Covid-19 to request their creditors a moratorium on credit and leasing repayments of up to 9 months.

Operation of insolvency courts / administration:

- The suspension of court proceedings was lifted at the end of the state of emergency. Courts must consider and implement administrative measures to observe rules of social distancing and prevent spreading the virus, which may cause certain delays to the courts' proceedings.

Related notes:



[RTPR: Emergency Journal](#)

[Insolvency aspects during the State of Alert](#)



Russia

 Igor Gorchakov
Allen & Overy Legal Services

Measures adopted:

- Temporary stay on obligation to file for insolvency
 - Temporary national moratorium
 - Stay on opening new insolvency proceedings
- The above measures are in force until 4 October 2020.

Measure being adopted / considered:

- None

Operation of insolvency courts / administration:

- No restrictions subject to the consequences of the adopted measures listed above.



Serbia

 Milica Savić
Karanovic & Partners

Measures adopted:

- On 17 March 2020, National Bank of Serbia introduced a 90-day moratorium on credit and leasing repayments. The moratorium cannot be shorter than 90 days or the length of the state emergency, whichever is longer. During the moratorium, a debtor is not obliged to repay the due instalments and no default interest is applicable. The bank / leasing provider cannot initiate enforcement or insolvency proceedings against the debtor or undertake any similar legal actions with the purpose of claiming the debt.
- The state of emergency was lifted on 7 May 2020 along with majority of measures regarding movement restrictions.

Measure being adopted / considered:

- None.

Operation of insolvency courts / administration:

- As of 11 May 2020, all courts, including commercial courts that are dealing with insolvency proceedings, are opened and the hearings are being held again. All participants at the hearing are required to wear protective gloves and masks and to maintain a 2m distance between each other.

Related notes:

[Karanovic & Partners - Covid-19 updates](#)



Slovakia

 **Renatus Kollar**

Allen & Overy Bratislava, s.r.o.

Measures adopted:

- Lengthening of the period in which an over-indebted company must file for a bankruptcy over its assets to 60 days. Applies to over-indebtedness occurring from 12 March 2020 to 30 April 2020.
- Effective from 12 May 2020, option for an entrepreneur (both individual and legal entity) to request the court to issue so-called temporary protection (i.e. moratorium) over such entrepreneur (the Moratorium). The conditions determined for an entrepreneur to become eligible to request for the Moratorium are rather vague and it is expected that this could be complied with by the entrepreneur on purposes. The effect of declaring the Moratorium over an entrepreneur is among others that:
 - the proceedings in relation to the creditor's petition filed after 12 March 2020 to declare bankruptcy over the assets of the entrepreneur under Moratorium are suspended; this effect also applies to creditors' petitions made during the term of Moratorium. Bankruptcy proceedings (where the bankruptcy of the entrepreneur has not been declared yet) and which were initiated on the basis of a creditor's petition submitted after 12 March 2020 are also suspended;
 - the entrepreneur subject to Moratorium is not obliged to file for bankruptcy during the term of Moratorium;
 - enforcement proceedings initiated after 12 March 2020 against the entrepreneur subject to Moratorium in order to satisfy a claim arising from its business activity are suspended for the term of Moratorium;
 - no enforcement of pledge may be initiated against the entrepreneur subject to Moratorium in relation to its enterprise, asset, right or other property value belonging to its enterprise;
 - limitation on set-off of receivables (applicable if such receivable towards the entrepreneur is (or historically was) owned by a party related to the entrepreneur) ;
 - after declaring the Moratorium, the counterparty may not terminate the contract, withdraw from the contract or refuse performance under the contract for the entrepreneur 's delay, which arose between 12 March 2020 and the entry into force of the Insolvency Amendment (i.e. 12 May 2020) and caused by the consequences of spread of COVID-19 (certain exceptions apply) ;
 - the entrepreneur is entitled to pay the obligations which arose after the declaration of the Moratorium and are directly related to the maintenance of the business of the enterprise of the entrepreneur in preference to any other previously-due liabilities of the entrepreneur;
 - a loan provided to the entrepreneur subject to Moratorium by a related party, which is directly related to the maintenance of the entrepreneur's operations, is not subject to standard subordination under the Slovak insolvency laws, but any related security in bankruptcy will not be taken into account.
- Moratorium may last until 1 October 2020 but under certain circumstances (Government action) can be prolonged until the end of 2020.

Measure being adopted / considered:

- None.

Operation of insolvency courts / administration:

- The courts (including insolvency courts) may proceed with hearings and public meetings only to the extent necessary. This will apply generally when (and as long as) the emergency situation or state of emergency is announced and held by the government (as it is now).



Slovenia



Mia Kalaš

Odvetniki Šelih & partnerji, o.p., d.o.o.

Measures adopted:

- Payment moratorium effective for 18 months as of cessation of reasons for measures. Possibility to apply for moratorium within 6 months of the pandemic ending, the moratorium shall last 12 months.
- State guarantee for part of the claims affected by the moratoria.
- Additional state guarantee scheme for new bank loans; priority in insolvency proceedings of unsecured parts of receivables which will be guaranteed in such scheme (both bank's as well as state's recourse claim)
- Until 31 September 2020: Additional insolvency presumption related to delay in payment of social contributions.
- Until 31 August 2020: Stay on management's obligation to file for insolvency and certain other prolongations of deadlines for certain actions of management in insolvency.
- Prolongation of the possible suspension on deciding on a creditor's application for commencement of bankruptcy proceedings (commencing after cessation of measures and on or before 31 August 2020).

Measure being adopted / considered:

- None
- The epidemic was declared to be ended (in respect of insolvency-related measures on 31 May 2020).

Operation of insolvency courts / administration:

- The insolvency courts are allowed to carry out proceedings, serve writs and decide even in non-urgent matter subject to compliance with safety measures.
- As of 1 June 2020, also all other types of courts have become fully operative subject to compliance with safety measures.

Related notes:



[Odvetniki Šelih & partnerji: Covid-19 news and updates](#)



Spain



Javier Castresana
Allen & Overy

Measures adopted:

- The following measures have been adopted:
 - temporary stay on directors' obligation to file for insolvency until 31 December 2020
 - stay on opening new insolvency proceedings
 - measures to speed up insolvency proceedings and the implementation of liquidation plans during the state of alarm and after it
 - measures regarding the possibility to amend insolvency compositions with creditors (*convenios*) which are in force and the forbearance of any breach of such compositions, within one year from the declaration of the state of alarm in Spain (that is, from 14 March 2020)
 - measures regarding the possibility to amend homologaciones (Spanish Schemes) already sanctioned, and the forbearance of any breach of such homologaciones, within one year after the declaration of the state of emergency
 - new money provided by specially related people will be considered as ordinary claims (as opposed to equitable subordinated), within any insolvency proceedings to be declared within 2 years following the declaration of the state of emergency
 - temporary stay on the Directors' duty in a situation of winding up as a consequence of FY20 results
 - temporary national moratorium on mortgage payment by individual in certain statutory regulated situations and on personal and consumer loans payment in certain statutory regulated situations, limited to a term of three months
 - temporary national moratorium or discount on rent payment of residential leases for dwellings in certain statutory regulated situations, applicable for the duration of the state of emergency and extendable up to a maximum of 4 additional months
 - delays in eviction of tenants of residential leases in certain statutory regulated situations, the maximum suspension period of the delays on eviction of tenants is 6 months since the end of the declaration of emergency situation in Spain
 - extension of the lease term to residential leases for main residence in certain statutory regulated situations for a maximum period of 6 months
 - temporary national moratorium on rent payments in commercial and industrial lease agreements in certain statutory regulated situations, applicable for the duration of the state of emergency and extendable up to a maximum of 4 additional months
- The above measures remain in force during the state of emergency (currently extended 7 June 2020), except for those in which we have included a specific term above

Measure being adopted / considered:

- The Royal Legislative Decree 1/2020 of 5 May, approving the revised text of the Insolvency Law, has been passed last 5 May 2020 and it has already been published in the Spanish Gazette on 7 May 2020. However, it will not come into force until 1 September 2020. This new Insolvency Law does not include the implementation of the Restructuring Directive, which is still pending.

Operation of insolvency courts / administration:

- The courts will only deal with urgent proceedings that are “necessary to avoid irreparable damage to the rights and legitimate interests of the parties to the proceedings”.

Related notes:

[Moratorium on mortgage payment and on duty to file for insolvency](#)

[Rent deferrals and other measures for residential lease agreements in Spain](#)

[Extension of the mortgage moratorium and adoption of a moratorium on personal and consumer loans](#)

[Covid 19 - Rent deferrals in commercial and industrial lease agreements](#)

[Covid-19: Spain unveils urgent insolvency measures to tackle the economic crisis that is to come](#)



Switzerland

 **Balz Gross**
Homburger AG

Measures adopted:

- Suspension of the duty to notify the bankruptcy court in case of overindebtedness until 20 October 2020;
- A new Covid-19 moratorium for small and medium-sized enterprises until 20 October 2020; and
- Amendments to the existing restructuring regime such as an extension of the duration of the provisional moratorium to six months.

The above measures are effective from 20 April 2020

Measure being adopted / considered:

- None.

Operation of insolvency courts / administration:

- No court hearings until 19 April 2020, except for emergency situations.
- Deadlines in legal proceedings are suspended until 19 April 2020

Related notes:



[Homburger: Covid-19 related bulletins](#)



Turkey

 **Umut Gurgey**
Allen & Overy Danışmanlık Hizmetleri Avukatlık Ortaklığı

Measures adopted:

- Temporary stay on obligation to file for insolvency
 - Stay on opening new insolvency proceedings
 - Stay on on-going insolvency proceedings
- Effective until 15 June 2020 (subject to further extensions)

Measure being adopted / considered:

- The Minister of Justice is reported to have said that they are discussing to adjourn all hearings, irrespective of its urgency and, in this respect, they have empowered High Council of Judges and Prosecutors.

Operation of insolvency courts / administration:

- Courts are open only for urgent matters. All hearings, except for those requiring swift action, have been adjourned. Flexible working system has been adopted by the Ministry of Justice.



United Kingdom



Measures adopted:

- None.

Measure being adopted / considered:

- A relaxation of the wrongful trading provisions whereby directors can be personally liable if there is no reasonable prospect of avoiding insolvent liquidation / administration and they do not take every step to minimize losses to creditors. The courts are directed to assume that any worsening of the financial position of the company during a limited period (currently expected to be 1 March 2020 to end of July 2020) is not the responsibility of the relevant director – this should reduce the quantum of any financial contribution required from directors.
- A moratorium that will give companies a breathing space from creditor action to explore options for rescue. The moratorium will be available for an initial period of 20 business days and can then be extended at the option of directors for a further 20 business days. Further extensions can be obtained with creditor consent or court approval or for the duration of other restructuring or reorganisation measures for up to (or in some cases exceeding) twelve months.
- A new restructuring plan based on the scheme of arrangement with the ability to cram down dissenting creditors within and across classes.
- Provisions preventing creditors from relying on contractual termination clauses or otherwise amending the terms of any contract or exercising other contractual rights as a result of insolvency/reorganisation proceedings.
- A temporary suspension of the effectiveness of statutory demands whereby those issued between 1 March 2020 and likely end of July 2020 cannot found the basis of a winding-up petition. Creditors are prohibited from presenting winding-up petitions (between 1 March 2020 and likely end of July 2020) unless they have reasonable grounds for believing that COVID-19 has not had a financial effect on the company and the company would have been unable to pay its debts or not satisfied a statutory demand even if COVID-19 had not had a financial effect on the company, and courts will dismiss any petitions that are made that do not meet these requirements.

Operation of insolvency courts / administration:

- The insolvency courts are open, however, restrictions resulting from the quarantine apply and hearings may be limited.
- Electronic filings are possible.

Related notes:



[Covid-19 coronavirus: Saving livelihoods and keeping UK businesses going](#)

[Covid-19 coronavirus update: relief for UK commercial tenants](#)

[The Corporate Insolvency and Governance Bill – the most significant insolvency reforms in the UK for a generation](#)

[Supercharging the scheme for restructurings: cram-up, cram-down and cram-across under the new UK restructuring plan](#)



Ukraine

 Anton Molchanov
Arzinger

Measures adopted:

- None.

Measure being adopted / considered:

- The majority's MPs submitted bill No. 3322 dated 10 April 2020 On amendments to the Insolvency Code of Ukraine (aimed at prevention and combating of outbreak and spread of the coronavirus disease (COVID-19) with the Ukrainian Parliament proposing the following measures:
 - allowing creditors meetings via videoconferences or by written voting
 - extending (for all the quarantine period) deadlines for preliminary bankruptcy court hearings, insolvency-related clawback actions, creditors' claims moratorium validity, fire sales announcements, performance of a turnaround plan, duration of pending insolvency stages (i.e. asset management, turnaround or liquidation);
 - during all the national quarantine period + additional 90 days after the quarantine has been cancelled to apply (i) temporary national moratorium on creditors' filing for the debtors' insolvency (if a triggering claim originated after 1 February 2020), (ii) extended timing for mandatory filing for insolvency, (iii) suspension of fire sales, (iv) suspension of default interest accrual over those obligations restructured under a turnaround plan and (v) availability of instalment for overdue payments under a turnaround plan.

Operation of insolvency courts / administration:

- Commercial courts dealing with both ordinary commercial disputes and insolvencies remain formally open, all filings remain available.
- All court hearings and meetings are postponed or cancelled until further notice, and all procedural deadlines are stayed. Some courts hold urgent cases only via videoconferences.

This document is for general guidance only and does not constitute definitive advice.

Allen & Overy means Allen & Overy LLP and/or its affiliated undertakings. Allen & Overy LLP is a limited liability partnership registered in England and Wales with registered number OC306763. Allen & Overy (Holdings) Limited is a limited company registered in England and Wales with registered number 07462870. Allen & Overy LLP and Allen & Overy (Holdings) Limited are authorised and regulated by the Solicitors Regulation Authority of England and Wales.

The term partner is used to refer to a member of Allen & Overy LLP or a director of Allen & Overy (Holdings) Limited or, in either case, an employee or consultant with equivalent standing and qualifications or an individual with equivalent status in one of Allen & Overy LLP's affiliated undertakings. A list of the members of Allen & Overy LLP and of the non-members who are designated as partners, and a list of the directors of Allen & Overy (Holdings) Limited, is open to inspection at our registered office at One Bishops Square, London E1 6AD.

Allen & Overy is an international legal practice with approximately 5,400 people, including some 550 partners, working in over 40 offices worldwide. A current list of Allen & Overy offices is available at [allenoverly.com/locations](https://www.allenoverly.com/locations).