

New restructuring regime in Hungary

The arrival of the eagerly awaited Restructuring Act

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Due to the transposition of Directive (EU) 2019/1023 through the Restructuring Act, which entered into force on 1 July 2022, a new preventive restructuring framework under Hungarian law is now applicable.¹

Objective of restructuring generally

The essence of restructuring is that companies in financial difficulties, when there is a likelihood of insolvency with a view to preventing the insolvency and ensuring the economic viability of the company, enter into negotiations with some or all of their creditors and include the results of these negotiations in a restructuring plan.

Novelties of the new act in a nutshell

- According to the new restructuring rules, the debtor may decide on restructuring if there is a likelihood of insolvency. A *likelihood of insolvency* means a situation in which there are reasonable grounds for believing that the debtor will be unable to meet its outstanding payment obligations when they fall due, unless further measures are taken.
- The request for opening a restructuring procedure is submitted by the debtor. The creditors cannot initiate a restructuring procedure, but in the rest of the procedure, the creditors are granted special procedural rights.
- The stay of individual enforcement actions (moratorium) means a temporary suspension, granted by the court, of the right of a creditor to enforce a claim against a debtor. The debtor may request the court to order a moratorium (a moratorium is not an automatic consequence of opening a restructuring procedure). The moratorium may be general, covering all creditors, or it may be limited, covering one or more individual creditors or categories of creditors as specified by the debtor. This demonstrates the debtor's significant control over the restructuring procedure. The duration of the moratorium is defined by the debtor, but it is limited to a maximum period of 4 months. The total duration of the moratorium, including extensions and renewals, cannot exceed 12 months.
- The aim of restructuring is to adopt and implement a restructuring plan with some or all of the creditors and thus prevent the debtor's future insolvency and ensure the debtor's financial viability. The creditors' classes vote on whether to accept the proposed restructuring plan, and the final confirmation rests with the court. In the restructuring procedure, it is possible to override dissenting creditors by a majority of creditors ('cross-class cram-down').
- For the purpose of adopting the restructuring plan, the affected creditors' claims are grouped into the following classes: (i) secured creditors' claims, (ii) creditors' claims related to the debtor's economic activity,

¹ Act No. LXIV of 2021 on Restructuring, implementation of the Directive (EU) 2019/1023 on restructuring and insolvency

(iii) other creditors' claims, and (iv) creditors' claims arising from a transaction which are of interest to the debtor. This order of the creditors' classes does not constitute an order of satisfaction.

- The court appoints a restructuring practitioner upon request or in the cases and under the conditions provided for by law, who assists the parties with negotiating and preparing the restructuring plan and supervises the debtor's activities during the negotiations on the restructuring plan.
- The restructuring runs from its starting date until the closing date of implementation of the restructuring plan or until the failure of the restructuring.

Expected effects on practice

The new Restructuring Act provides the legal framework that has been missing in the field of insolvency proceedings. In the restructuring procedure, the objective of the restructuring plan is new, and the concept of the 'cross-class cram-down' and the 'best interest of creditors' test are also new.

This new set of rules offers a number of tools to ensure the success of the restructuring, including:

- the involvement of a restructuring practitioner,
- the new financing provided by the creditors for the implementation of the restructuring plan,
- and the interim financing provided by the creditors with the aim of allowing the debtor to continue its activities during the stay of individual enforcement actions.

It remains to be seen whether the new restructuring procedure will change the approach of debtors and creditors, as the procedure can largely be controlled by the parties unlike bankruptcy and liquidation proceedings.

For further information on the restructuring topic, you can access [the Wolf Theiss Guide - Restructuring frameworks undergoing change](#).

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For more information about our services, please contact:



Melinda Pelikán
Counsel

E melinda.pelikan@wolftheiss.com

T +36 1 4848 800



Enikő Lukács
Associate

E eniko.lukacs@wolftheiss.com

T +36 1 4848 800