



# SIMPLIFIED RESTRUCTURING PROCEEDINGS

New restructuring tool in Poland  
introduced by an Anti-crisis Shield 4.0  
in connection with the Covid-19 pandemic

**Report after Q1 2021**

April, 2021

IN COOPERATION WITH  
THE INSO SECTION  
OF THE ALLERHAND INSTITUTE



**INSO**

SEKCJA PRAWA UPADŁOŚCIOWEGO  
I RESTRUKTURYZACYJNEGO

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## SIMPLIFIED RESTRUCTURING PROCEEDINGS

# Most important data

From July 2020 there has been a noticeable growth in opening restructuring proceedings, which resulted mainly from the economic slowdown in the aftermath of the Covid-19 pandemic.

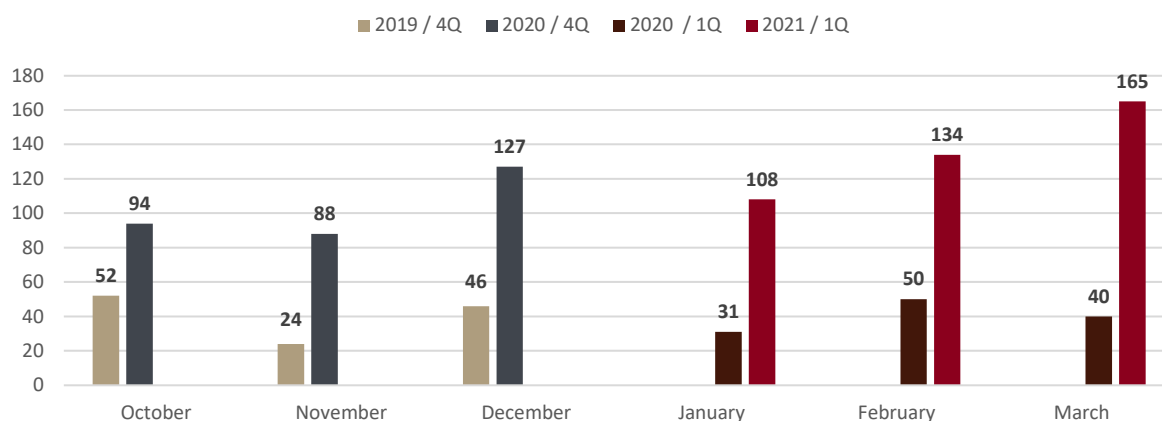
### RESTRUCTURING PROCEEDINGS IN POLAND

The 1st quarter  
of 2020

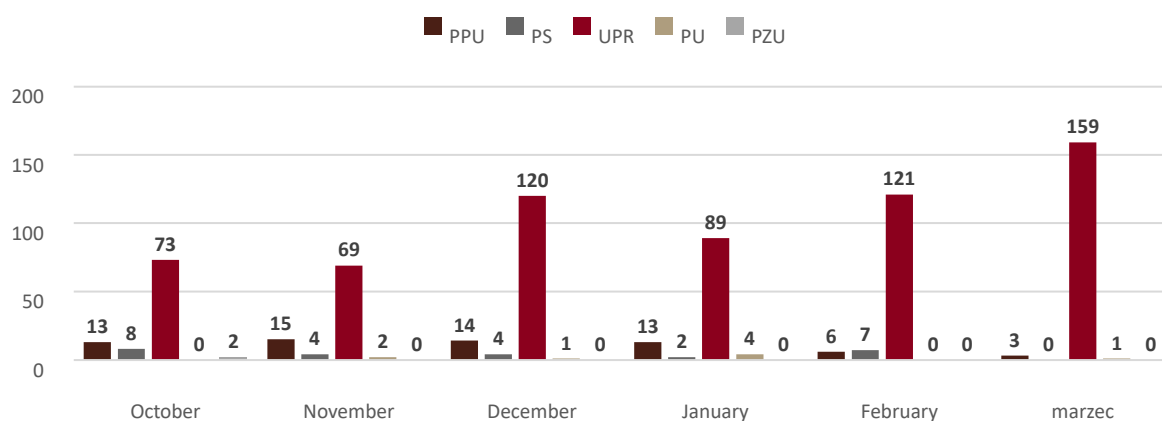
**121**

The 1st quarter  
of 2021

**407**



### SIMPLIFIED RESTRUCTURING PROCEEDINGS COMPARED TO OTHER RESTRUCTURING PROCEEDINGS



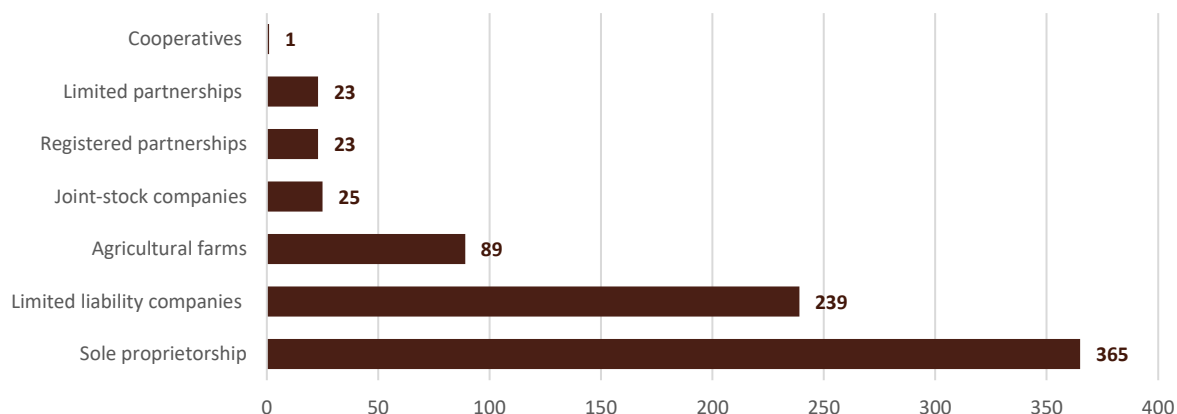
#### Legend:

UPR – Simplified Restructuring Proceedings  
PPU – Accelerated Arrangement Proceedings  
PZU – Proceedings to Approve the Arrangement  
PS – Remedial Proceedings  
PU – Arrangement Proceedings

#### TOTAL PROCEEDINGS JULY 2020 – MARCH 2021

PPU	PS	UPR	PU	PZU
110	51	765	19	2
12%	5%	81%	2%	0%

## SIMPLIFIED RESTRUCTURING – LEGAL FORMS OF BUSINESS ACTIVITY



**Total: 765**

## SIMPLIFIED RESTRUCTURING PROCEEDINGS ACROSS VOIVODSHIPS IN POLAND



## SIMPLIFIED RESTRUCTURING PROCEEDINGS

# Specific data

**Data show that in 60% of the opened proceedings by the end of November 2020, the arrangement has been concluded.**

Out of 276 Simplified Restructuring Proceedings opened by November 2020 (by the end of March 2021 the debtors should have filed their applications to approve the arrangement) there were:

- 166 concluded arrangements, awaiting approval, what counts to 60% of all the opened proceedings
- 26 approved arrangements by the courts, what counts to 16% of the concluded arrangements
- 28 not-concluded arrangements
- 138 pending cases.

An interesting case of Sfinks Polska S.A. (District Court for the Capital City of Warsaw, 18th Commercial Division for Bankruptcy and Restructuring Matters, case No XVIII GRz 46/20). The court cancelled the effects of making the announcement, but later on, within 10 days from filing the application, approved the arrangement.

In our next Report we will carefully analyze the data regarding the approved arrangements, but even now during a court query we found only 2 refusals to approve an arrangement.

Yet, it is worth noting that courts have not processed most of the filed applications and cases from September still await processing by the court.

**Since instigation, these proceedings amount to 81% of all restructuring proceedings.**

Concluded arrangements	166 (until the end of November 2020 – app. 60%, 166 out of 276 opened proceedings)
Approved arrangements	26 (16%)
Discontinuations	110* - already 28 discontinuations published in the Court and Commercial Gazette (MSiG)
Partial arrangements	2 (out of 9 applications)
Cancellations of the effects of making the announcement	16
Refusals to approve the arrangement by the court	2

\* discontinuation of the proceedings arises by operation of law, when the application is not filed with the court within 4 months from the opening of the proceedings. In 28 cases, the court announced such discontinuation in the MSiG.

Data based on announcements in the Court and Commercial Gazette (MSiG) may differ when there are delays in publishing.



## Comment by Karol Tatara

A QUALIFIED RESTRUCTURING ADVISOR  
AND AN ATTORNEY-AT-LAW

The first 3 months of 2021 are another quarter in which we observe a significant increase in an interest in simplified restructuring proceedings. In March alone, the UPR has more than 150 opened proceedings. The court system - in these proceedings, necessary only at the stage of approval of the arrangement - was not prepared for such an increase in the number of restructurings. Therefore, an approval of the arrangement may remain pending as long as 9 months, which is longer than the simplified proceedings itself. Bankruptcy and restructuring courts are inundated with consumer bankruptcy cases, which are growing rapidly.

I hope that the implementation of the IT system (National Registry of Debtors – Krajowy Rejestr Zadłużonych) will improve this situation. Still, it is not necessary in this context of further organizational reforms. They can be introduced on the occasion of the implementation of the Second Chance Directive (2019/1023) – called also the Restructuring Directive, for which the UPR may be model proceedings. It is also worth noting that simplified proceedings – available at this moment until the end of June this year – has a chance to remain in restructuring law permanently. The amendment to the Act on the National Registry of Debtors introduces the simplified restructuring tools and the key solutions contained in the UPR to the proceedings for the approval of the arrangement – the draft act was issued on April 20, 2021 adopted by the Sejm (Sejm Paper No 1016, Senat Paper No 387) and will be a subject of further legislative work.

Despite the considerable burden on the Courts, it is worth emphasizing that the UPR still remains the fastest restructuring procedure.

Particularly noteworthy in the simplified proceedings is a significant percentage of concluded and approved arrangements. In the analyzed period, the arrangements concluded constitute approximately 60%, and the arrangements approved by the court are among them about 16%. It is worth noting that out of 166 proceedings in which arrangements were concluded by the end of November 2020 and applications for their approval were submitted, only in 2 cases the court refused to approve the arrangements.

This confirms that simplified restructuring proceedings are successful at the pre-trial stage when it comes to reaching an agreement between all concerned. This also shows the responsibility of the restructuring advisors whose task is to conduct the proceedings efficiently.

An interesting piece of information is that the UPR also uses a partial arrangement – nine such applications have been filed and the courts have already approved 2 such arrangements.

It remains to be hoped for further improvements to the organizational system of the judiciary, eg. in the form of a gradual increase of extrajudicial elements and for a quick completion of the legislative path of the act amending the National Registry of Debtors. The enactment of this amendment will make it possible to use the simplified proceedings on a permanent basis, and not only until the end of June 2021.

## SIMPLIFIED RESTRUCTURING PROCEEDINGS

# Authors

**Tatara & Partners Restructuring & Insolvency Law Firm** is one of the leading law firms in Poland in the restructuring and insolvency law area. The Law Firm serves all stakeholders of the restructuring and insolvency proceedings, including debtors seeking to open restructuring proceedings or declare insolvency, creditors, trustees, court supervisors and investors interested in Distressed Assets.

The specialization of Tatara & Partners Restructuring & Insolvency Law Firm is to combine the issues of insolvency law and reorganization proceedings with widely understood commercial law, in particular with company law and capital markets law.

Tatara & Partners Restructuring & Insolvency Law Firm as well as Karol Tatara individually are regularly listed among leading lawyers and law firms:

- The Law Firm is ranked as one of the top recommended law firms in Rzeczpospolita's Ranking and Karol Tatara as a leading lawyer from 2015;
- Karol Tatara has been mentioned in international Who's Who Legal 2019 and 2020 rankings within Restructuring & Insolvency
- The Law Firm was acknowledged for its engagement in the legislative anti-pandemic activity. The organizers of the Ranking acknowledged Karol Tatara and his team for creating and evaluating the so called 'Covid Shields' with regard to business law. Karol Tatara took part in restructuring and insolvency law related issues, including Simplified Restructuring Proceedings.
- Karol Tatara received Band 4 individual recommendation in international Ranking Chambers Europe Restructuring / Insolvency Poland 2020 and 2021

More info: <https://tatara.com.pl/kancelaria-prawa-gospodarczego-i-upadlosciowego-karol-tatara-english-version/>

**Alerion sp. z o.o.** is a restructuring company. It is a limited liability company which is entitled to act as a trustee, court supervisor or administrator in restructuring proceedings or bankruptcy proceedings. In particular, the company performs the function of an arrangement supervisor in Simplified Restructuring Proceedings. It also provides restructuring advisory services. Its management board comprises Karol Tatara, Maciej Knopek and Anna Czarnota.

More info: [www.alerion.pl](http://www.alerion.pl)

## SIMPLIFIED RESTRUCTURING PROCEEDINGS

# Methodology

The report is based on an analysis of the announcements concerning the opening of restructuring proceedings, which have been published in the Court and Commercial Gazette (Monitor Sądowy i Gospodarczy) in the period between July and December 2020. Although Simplified Restructuring Proceedings are only available from June 24, 2020, the first announcements about the opening of the proceedings appeared in the Court and Commercial Gazette on July 1, 2020. Additionally, the authors contacted the courts to determine whether applications for approval of the concluded arrangements have been received in the proceedings opened in July and August 2020. The data on insolvency and bankruptcy cases come from the Court and Commercial Gazette.

We have also obtained valuable information from restructuring advisors we contacted. We would like to express our gratitude for their help and providing valuable information!



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