

Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 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, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency) (Text with EEA relevance)

TITLE II

PREVENTIVE RESTRUCTURING FRAMEWORKS

CHAPTER 3

Restructuring plans

Article 10

Confirmation of restructuring plans

1 Member States shall ensure that at least the following restructuring plans are binding on the parties only if they are confirmed by a judicial or administrative authority:

- a restructuring plans which affect the claims or interests of dissenting affected parties;
- b restructuring plans which provide for new financing;
- c restructuring plans which involve the loss of more than 25 % of the workforce, if such loss is permitted under national law.

2 Member States shall ensure that the conditions under which a restructuring plan can be confirmed by a judicial or administrative authority are clearly specified and include at least the following:

- a the restructuring plan has been adopted in accordance with Article 9;
- b creditors with sufficient commonality of interest in the same class are treated equally, and in a manner proportionate to their claim;
- c notification of the restructuring plan has been given in accordance with national law to all affected parties;
- d where there are dissenting creditors, the restructuring plan satisfies the best-interest-of-creditors test;
- e where applicable, any new financing is necessary to implement the restructuring plan and does not unfairly prejudice the interests of creditors.

Compliance with point (d) of the first subparagraph shall be examined by a judicial or administrative authority only if the restructuring plan is challenged on that ground.

3 Member States shall ensure that judicial or administrative authorities are able to refuse to confirm a restructuring plan where that plan would not have a reasonable prospect of preventing the insolvency of the debtor or ensuring the viability of the business.

4 Member States shall ensure that where a judicial or administrative authority is required to confirm a restructuring plan in order for it to become binding, the decision is taken in an efficient manner with a view to expeditious treatment of the matter.