



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Eidgenössisches Justiz- und Polizeidepartement EJPD

Bundesamt für Justiz BJ
Direktionsbereich Privatrecht

SME insolvencies in Switzerland – a short overview

International Conference 14. July 2023

Prof. Rodrigo Rodriguez

Head of the federal supervisory authority on debt recovery and insolvency, Bern,
Professor at the University of Lucerne



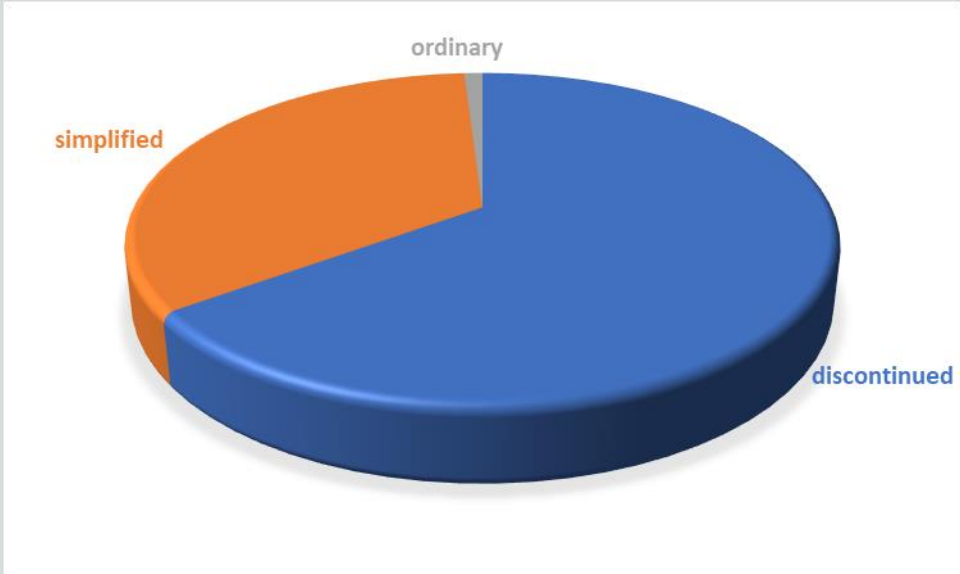
Switzerland's debt recovery and insolvency law – the bullet points

- Not a EU member State (not subject to EU regulations)
- Switzerland is a civil law jurisdiction
- Debt enforcement and insolvency act of 1898 (!) still in force (with revisions)





The 3 insolvency «proceedings» of Swiss law

Name and legal basis		Relevance in practice								
Ordinary bankruptcy proceedings (artt. 197 - 292 DEBA)	Full-fledged insolvency proceedings > 50'000 EUR	 <p>A 3D pie chart illustrating the distribution of three types of insolvency proceedings in Swiss law. The chart is divided into three segments: a large blue segment labeled 'discontinued', a medium orange segment labeled 'simplified', and a very small grey segment labeled 'ordinary'.</p> <table border="1"><caption>Estimated data from the pie chart</caption><thead><tr><th>Proceeding Type</th><th>Estimated Percentage</th></tr></thead><tbody><tr><td>discontinued</td><td>~75%</td></tr><tr><td>simplified</td><td>~20%</td></tr><tr><td>ordinary</td><td>~5%</td></tr></tbody></table>	Proceeding Type	Estimated Percentage	discontinued	~75%	simplified	~20%	ordinary	~5%
Proceeding Type	Estimated Percentage									
discontinued	~75%									
simplified	~20%									
ordinary	~5%									
Simplified bankruptcy proceedings (art. 231 DEBA)	Simplified (no creditors committee, more powers to the administrator) > 2'000 CHF									
discontinued bankruptcy proceedings (art. 230a DEBA)	After inventory, proceedings are closed.									



What about restructuring proceedings ?

- Irrelevant/inexistent for small companies (cost issues)
- Raising relevance for medium enterprises (but still exceptional)
- Legislative project for simplified restructuring proceedings ongoing





Conclusion

- Cost-efficiency comes at a price: no proceedings in most cases
 - Public funding of «minimal proceedings»? Cost ceiling for proceedings?
- Quick and cheap liquidation is more important for SME than restructuring proceedings.