

Find your case: The INSOL Europe “European Insolvency Regulation Case Register”

Professor Reinhard Bork explains the history and purpose of the Register, and how to contribute



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First launched in 2011 at the INSOL Europe Annual Conference, the INSOL Europe European Insolvency Regulation Case Register is a database that summarises cases from first instance and appeal courts of Member States of the European Union, as well as the CJEU, that deal with a significant point relating to the European Insolvency Regulation (both Regulation EC 1346/2000 and Regulation EU 2015/848).

It is an internet-based system within which information on court decisions and judgments relating to the European Insolvency Regulation (‘EIR’) is collected and disseminated. Since 2014 the Case Register has been hosted by LexisNexis.

The goals of the EIR Case Register are threefold. Firstly, it aims to enable practitioners, insolvency office holders, judges and academic scholars to take into account relevant court decisions from other Member States when dealing with matters pertaining to the EIR. Secondly, it aims to promote and facilitate uniformity in the interpretation and application of the Insolvency Regulation. Thirdly, the final, overarching, aim of the EIR Case Register is to promote and facilitate worldwide awareness of the EIR.

The EIR Case Register provides a unique platform which brings together relevant court decisions based on the EIR from throughout the European Union. With case summaries dating from 2001 onwards and containing over 600 summaries of cases applying the EIR from every

Member State, the EIR Case Register is a unique resource for anyone with a practical or an academic interest in judgments which consider the EIR.

How does the EIR Case Register develop?

The EIR Case Register relies on a network of National Correspondents in close collaboration with the Case Register’s Management Board. The former are practitioners and academics in the fields of insolvency law who are situated within each Member State of the European Union. The general task of a National Correspondent is to monitor and collect court judgments and decisions from within their jurisdiction, determine which of those they consider relevant, and then prepare case summaries (abstracts) in English. Their distribution throughout the European Union, combined with their closeness to the most recent legal developments, allows National Correspondents to promptly and precisely surmise recent cases. These in turn are uploaded onto the EIR Case Register, ensuring that it consistently contains the most up-to-date and relevant summaries of cases. The latter Management Board is currently composed of Chris Loughton, Stefan Ramel and Professor Reinhard Bork. The Management Board, as well as the national abstracts moderators (Professor Reinhard Bork, Hamburg, together with Professor Kristin van Zwieten, Oxford, who ensure linguistic uniformity and clarity) and the CJEU cases moderator (Stefan Ramel, London) are

assisted by the Technical Officers of INSOL Europe.

The intensive work of both the National Correspondents and the Management Board allows the EIR Case Register to constantly expand, as new case summaries are provided by National Correspondents and incorporated into the Register on an ongoing basis, ensuring that it consistently contains the most up-to-date and relevant cases. Accordingly, in 2017, the number of case summaries within the EIR Case Register increased to over six hundred. Moreover, in January 2018 alone, an additional fifteen cases were added to the EIR Case Register.

How are the case summaries structured?

At two- to five-hundred words and no more than two pages long, the case summaries in the EIR Case Register provide only the most salient and relevant points taken into account in judicial decisions which apply or consider the EIR.

National Correspondents are all provided with, and work to, a standardised layout which prescribes a fine and detailed set of objective data and specific rules, and allows for easy accessibility and comprehensibility. This ensures that every case summary is identical in format, irrespective of its original provenance. Furthermore, National Correspondents also work with a list of themes which are used to provide key words for the case summaries and reflect the legal and technical details necessary for optimal functioning of the Register.



THE EIR CASE REGISTER PROVIDES A UNIQUE PLATFORM WHICH BRINGS TOGETHER RELEVANT COURT DECISIONS BASED ON THE EIR FROM THROUGHOUT THE EU



For increased depth, and to enable further and more detailed research, the case summaries on the EIR Case Register contain information such as the original public source of the full judgment from the relevant Member State, the relevant case law from the CJEU, and, in many cases, a commentary on the case.

What is the Case Register useful for?

The broad and unrivalled scope of the EIR case register makes it a particularly useful tool which allows practitioners and academics alike to access and consider the case law relating to the European Insolvency Regulation from within the European Union.

Any jurisprudence handed down from the CJEU is binding on the Member States within the EU. Yet relatively little case law or guidance is available. Subsequently, the treatment of the Regulation in the national courts of other Member States becomes of significant importance as guidance in cases where the respective Member State has either little, or no, case law considering or answering a particular question. Although cases from first instance or appeal courts of other Member States would not be binding, they can be of significant use as guidance when considering how the European Insolvency Regulation may be applied within another Member State. However, many such decisions are taken by first instance or appeal courts within the different Member States. This means that they are generally only published in the native language of the Member State from which they originate and, accordingly, are often inaccessible or are only accessible through multiple paywalls, and present the risk of mistranslation or inaccurate translation to those wishing to access them.

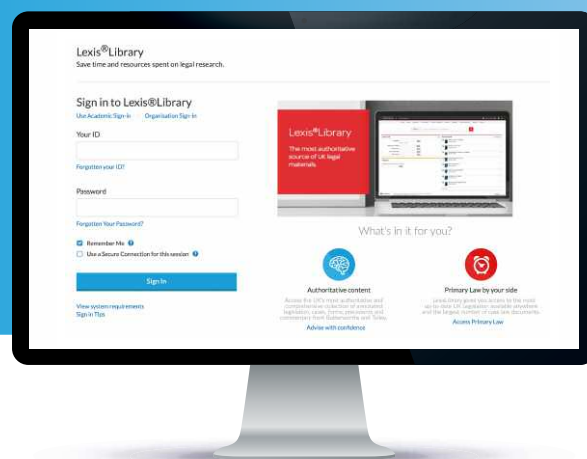
The case summaries that make up the EIR Case Register, as they are supplied by native practitioners and academics from every Member State of the

How to access the Case Register

While the Case Register's management and moderation remains the responsibility of INSOL Europe, since 2014, the Case Register has been hosted by LexisNexis and, accordingly, is accessible under: <http://tinyurl.com/y7tf2zc4>

INSOL Europe members should have received an email with individual login details (user name) and passwords. If these have been forgotten, or the email lost, there is a LexisNexis dedicated mailbox for INSOL users (INSOL-Users@lexisnexis.co.uk) which can be contacted to be sent a reminder.

Non INSOL Europe members can contact the technical officers of INSOL Europe at technical@insol-europe.org who will arrange access to LexisLibrary and for the Lexis Team to send new user information.



European Union, circumvent this problem. The case summaries are all written and published in English for easy accessibility and consistency throughout the Register, but come from the jurisdiction where the original judgment was pronounced. While not binding, they allow practitioners and academics to consider different interpretations of potentially problematic articles of the European Insolvency Regulation to which they would not otherwise have access and which could be persuasive within their native jurisdictions.

Incorporation of the EIR Recast into the Case Register

Following the entry into force of the European Insolvency Regulation Recast 2015/848, the aforementioned standardised layout was adjusted to allow for cases which apply the Recast EIR to be quickly easily identifiable, as well as to allow for immediate incorporation of these cases into the EIR Case Register.

Since 26 June 2017, case summaries applying the Recast EIR have been incorporated into the EIR Case Register. As of early February 2018, six case summaries applying the Recast EIR have been composed and uploaded onto the EIR Case

Register and more are in the pipeline.

This further development keeps the EIR Case Register at the forefront of judicial development and ensures that those who use it do not run the risk of relying on out of date information.

A concrete illustration of using the Case Register

Once a case summary has been written and submitted by a National Correspondent, reviewed by the board and added to the EIR Case Register, it becomes available to those who have access to the Register.

Accessing the case summaries is then simple. It is possible to either search by key word and use relevant criteria such as the case name, its citation, judgment date, court (note the court name must be accurate), relevant section of the Recast EIR or EIR 2000. Alternatively, a search by browsing features is available, which allows for browsing through case summaries submitted, by country, or all case summaries submitted from a certain country. ■

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