

European Update... continued!

Myriam Maily, Co-Technical Officer of INSOL Europe, writes about the recent European information that members should be aware of and that is now available on the INSOL Europe website



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THE DIRECTIVE SHOULD ALLOW VIABLE BUSINESSES IN DISTRESS TO BE RESCUED AND HONEST BUT BANKRUPT INDIVIDUALS TO BE GIVEN A SECOND CHANCE



The European Directive on restructuring and insolvency (2019)

The EU adopted on 20 June 2019 the Directive (EU) 2019/1023 of the European Parliament and of the Council 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 (hereafter the 'Directive').

With that text (OJEU L 172 of 26.06.2019, p. 18-55), the European Union aimed at disseminating in all EU Member States modern and streamlined rules that should facilitate restructuring, give entrepreneurs a second chance and improve the efficiency of restructuring, insolvency and debt discharge procedures. In other words, among other provisions, the Directive would allow viable businesses in distress to be rescued and honest but bankrupt individuals to be given a second chance.

The final text of the Restructuring & Insolvency Directive as published in the official journal of the EU is now available from the INSOL Europe website at www.insol-europe.org/technical-content/introduction

According to its Article 34,



Member States are required to adopt and publish by 17 July 2021, the laws, regulations and administrative provisions necessary to comply with the Directive (subject to several exceptions detailed into the same Article) by 17 July 2021.

Several EU Member States are already in the process of adopting such provisions. And as the success of the EU approach (which consists of ensuring minimum standards in the field of restructuring and insolvency in every EU Member States)

would depend a lot on the way that they will implement these standards into domestic legislations, INSOL Europe members are strongly encouraged to share their views or to comment on their national draft implementing texts. To keep members of INSOL Europe informed, any document of interest can be sent to:

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More information and comments on the Restructuring & Insolvency Directive should then follow in the coming months!

A closer look to the EU proposal on securities and claims ownership

With the Proposal for a Regulation of the European Parliament and of the Council on the law applicable to the third-party effects of assignments of claims, COM/2018/096 final - 2018/044 (COD), the European Commission proposed the adoption of **common conflict-of-laws rules on the third-party effects of assignment of claims**.

The proposal complements the Rome I Regulation. It aims to introduce legal certainty, promote cross-border investment, enhance access to credit and contribute to market integration. To that end, it provides that the law of the country where the assignor has its habitual residence will govern the third-party effects of the assignment of claims.

The text is available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018PC0096>

Taking into account the complexity of the proposal, its possible impact on financial markets and its interrelation with other pieces of Union law, it was however decided in May 2019 that further work at technical level was required before the Council can take any political decision.

More to follow in the forthcoming weeks...!

Call for contributions regarding national legislation created to deal with the concrete application of the European Insolvency Regulation 2015/848

As you were already informed in the last technical column, a new set of information has been made available to help the insolvency actors to find relevant information on the national laws applicable to cross-border insolvencies when applying the EIR Recast.

Indeed, the national texts adopted to deal with the (concrete) application of the EIR Recast are available for the following countries: Czech Republic, England & Wales, Finland, France, Hungary, Ireland, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Spain and The Netherlands at: www.insol-europe.org/national-texts-dealing-with-the-eir-2015

If you want to contribute as well for non-covered countries, please do not hesitate to send me any relevant links, articles etc... at mailly.myriam@orange.fr ■



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