

Publications of interest on EU prevention, restructuring and insolvency matters

Myriam Maily writes about the latest information made available to INSOL Europe members on the INSOL Europe website



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EU public consultation on 'Insolvency laws: increasing convergence of national laws to encourage cross-border investment'

In my previous technical column, INSOL Europe members were informed that the European Commission had published a Survey in order to consult all stakeholders with an interest in insolvency law on the new EU initiative to be adopted for the second quarter of 2022 and aiming at improving convergence between national frameworks for corporate insolvencies.

As a consequence, we are pleased to let you know that INSOL Europe has participated to that public consultation as a Non-Governmental Organisation and that the contribution to that survey (which tackled important issues that were not addressed in the Directive on Restructuring

and Insolvency (n°2019/1023), including the liability and duties of directors of companies in the vicinity of insolvency; the status and duties of insolvency practitioners; the ranking of claims; avoidance actions; identification and preservation of assets belonging to the insolvency estate or core procedural notions) is now available at www.insol-europe.org/eu-study-group-news

EU Proposal for a Regulation replacing Annexes A and B to the EU Insolvency Regulation

For your information, the EU Commission has launched a public consultation on a Proposal for a Regulation replacing Annexes A and B to the EU Insolvency Regulation.

Amendments follow notifications to the European Commission from **The Netherlands** (November 2020),

Italy, Lithuania, Cyprus and Poland (December 2020) in relation to the recent changes of their domestic insolvency law.

This proposal is open for feedback for a minimum period of 8 weeks (17 May 2021 - 12 July 2021 (midnight Brussels time) during which time INSOL Europe members can share their views on this EU legislative Act.

More information is available at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13026-Regulation-replacing-Annexes-A-and-B-to-the-EU-Insolvency-Regulation_en

Tracker on the Implementation of the EU Restructuring and Insolvency Directive

As a reminder, a tracker on the implementation of the EU restructuring and insolvency Directive is available on the INSOL Europe website at: www.insol-europe.org/tracker-eu-directive-on-restructuring-and-insolvency

Since the last technical column, updates were published for **Slovakia, Italy, Portugal and The Netherlands**. The tracker is still being updated and will be until July 2022 which is the ultimate deadline for Member States having used the extension option provided for by Article 34(2) of the Directive.

In the meantime, relevant information regarding the Directive on Restructuring and Insolvency of 20 June 2019 remains available from: www.insol-europe.org/technical-content/eu-directive-on-restructuring-and-insolvency



A tracker on the implementation of the EU Restructuring and Insolvency Directive is available on the INSOL Europe website



Lexis[®]PSL

INSOL Europe/ LexisPSL Joint Project on 'How EU Member States recognise insolvency and restructuring proceedings of a third country'

As a reminder, LexisPSL R&I's has sought the collaboration of INSOL Europe in which the INSOL Europe's country coordinators have provided answers to key questions on recognition by EU Member States of insolvency or restructuring proceedings commenced in a third country, such as the UK (post Brexit).

A consolidated table including the replies from INSOL Europe and the articles accredited to INSOL Europe for **Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, France, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, The Netherlands, Poland, Portugal, Romania, Slovakia, Spain and Sweden** are available on the INSOL Europe website at: www.insol-europe.org/technical-content/recognition-in-third-states

Best Practices Guidelines for Judicial Cooperation in EU Cross-Border Insolvency Proceedings

These guidelines aim at providing some substantial and procedural guidance to those professionals under the duty to communicate and coordinate insolvency proceedings in the context of the EU Regulation 2015/848 of 20 May 2015. In particular, these guidelines promote non-binding best practices in terms of cooperation and coordination between courts themselves and between courts and insolvency practitioners appointed in main and/or secondary insolvency proceedings, including in case of corporate groups.

These guidelines remain also the objectives and the main provisions of the European Insolvency Regulation Recast all taking into account other recently formulated standards in this area, including the INSOL Europe European Communication and Cooperation Guidelines for Cross-Border Insolvency (2007), the UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation (2009), the UNCITRAL Model Law on Enterprise Group Insolvency with Guide to Enactment, Chapter 2 (2019), and other International Principles or Guidelines including those adopted by the International Insolvency Institute and the American Law Institute.

These guidelines were prepared by the Ecole Nationale de la Magistrature (ENM, France), in partnership with the Institut de Formation Judiciaire-Institut voor Gerechtelijke Opleiding (Belgium), the Consejo General del Poder Judicial-Escuela Judicial (CGPJ-EJ, Spain) and the Krajowa Szkoła Sądownictwa i Prokuratury (KSSIP, Poland) as part of the 'EU cross-border insolvency proceedings: judicial inter-professional cooperation for an effective application of the recast EU insolvency Regulation' Project (2019-2021).

This publication is also closely related to the professional training prepared by these training institutions and held in February and December 2020, with a view to facilitate the work of judges and practitioners dealing with such issues. The training was developed, in addition to the above actors, with the support of the French Conseil National des Administrateurs judiciaires et Mandataires judiciaires and was funded by the Justice Programme of the European Union (2014-2020).

These guidelines are available in English, French, Polish and Spanish at www.insol-europe.org/eu-study-group-links ■

For updates on new technical content recently published on the INSOL Europe website, visit: www.insol-europe.org/technical-content/introduction or contact Myriam Maily by email: technical@insol-europe.org

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> www.insol-europe.org/publications/web-series

Updated Insolvency Laws

> www.insol-europe.org/technical-content/updated-insolvency-laws

National Insolvency Statistics

> www.insol-europe.org/technical-content/national-insolvency-statistics

EIR Case Register

> <http://tinyurl.com/y7tf2zc4>

European Insolvency Regulation

> www.insol-europe.org/technical-content/useful-links-to-be-aware-of-before-applying-the-recast-insolvency-regulation-2015848

> www.insol-europe.org/technical-content/outcomes-of-national-insolvency-proceedings-within-the-scope-of-the-eir-recast

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> www.insol-europe.org/technical-content/state-of-play-of-national-insolvency-data-by-outcomes-currently-available

> www.insol-europe.org/national-texts-dealing-with-the-eir-2015

EU Directive on Restructuring and Insolvency (2019)

> www.insol-europe.org/technical-content/eu-draft-directive

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