

Searching for harmonisation potential: The latest work of the Experts' Group

Myriam Mailly (INSOL Europe Technical Officer) and Paul Omar (INSOL Europe Technical Research Coordinator)

The European Commission's Experts' Group in Restructuring and Insolvency (ECEG) has now been working away for nearly six months. Five meetings have now taken place: 12 April, 10 May, 22 June, 14 July and, after a summer pause, recently on 15 September.

Across the totality of these meetings, the work has proceeded on two levels, firstly identifying, among the many topics put forward for debate, those which are possible targets identified during the prior impact assessment, including some substantive topics, some procedural issues and some capacity building elements (including court and IOH capacity), those proposals that could command broad support within the group itself.

Second, thinking more strategically to the likely adoption process, the experts are conscious of the need to anticipate what measures Member States would accept as being sufficiently imperative to warrant convergence of the rules across the Single Market. A final consideration shaping the outcomes and product of the deliberations is the form that the measures might take, some perhaps more suitable for (or more acceptable in the guise of) a recommendation, with others perhaps requiring a Directive-like structure, for which the ECEG members have been invited to propose draft texts for consideration.

Overall, the debate has been genuinely lively and the work of the many clusters into which the group has been divided has produced thought-provoking suggestions for possible ways forward. This is perhaps unsurprising, given the make-up of the ECEG, as first



constituted, to which new faces have been added representing the widest possible number of constituencies, disciplines within the broad insolvency and restructuring fields and areas of expertise, judicial, academic and practice-based.

The experts on the ECEG are acutely aware of the sensitive nature of restructuring and insolvency laws (being not just legal tools, but ones with economic and social consequences, and which interface with many other key aspects of domestic law). In terms of their approach, though, the experts remain aware of the push that the Preventive Restructuring Directive 2019 has given to developments in this field and of the need to make progress whilst the topic remains top of the agenda, not least because of concerns about the security and resilience of businesses and the economic activity in a post-pandemic world.

Over the remainder of 2021, the plan is for the ECEG to meet a further three times monthly from October to December with the possibility of one or more meetings in the New Year to finish off the presentation of the texts that will be heading for the end of the first stage of deliberations, before becoming the subject of the decision on further progress that is scheduled for March 2022.

The logo for the Academic Forum INSOL Europe, featuring a circular arrangement of white dots of varying sizes against a blue background. Below the logo, the text "ACADEMIC FORUM" is written in large, bold, white capital letters, with "INSOL Europe" in smaller letters underneath.

Call for Papers - Annual Conference Dublin 2022

The Academic Forum of INSOL Europe will be hosting its Annual Conference at the Clayton Hotel Burlington Road, 2-3 March 2022, immediately prior to INSOL Europe's Annual Congress taking place in Dublin from 3-6 March 2022.

Expressions of interest are invited for the delivery of papers within the overall conference theme, which will be: "The Emerging New Landscape of European Restructuring and Insolvency."

Submissions should be sent by email on or before 6 December 2021 to Line Langkjaer, the Academic Forum's Secretary, at: linehl@law.au.dk.

A paper submission form relating to this call is available on the INSOL Europe website at www.insol-europe.org/academic-forum-events

Proposals for papers will then be reviewed by the Academic Forum's Board and, on or around 10 January 2022, the Board will contact authors of those papers that will have been selected for presentation at the conference.