

'Just ban all insolvencies'
On limiting access to insolvency proceedings in crisis

Niels Pannevis

This presentation aims to discuss the limitations placed on the opening of insolvency proceedings during the Covid-pandemic.

First, we discuss the reasons to curb access to insolvency proceedings amidst what seemed, at the time, to be the largest economic meltdown since the Second World War, and the reasons not to limit the access to insolvency proceedings.

From that, we move on to discuss how the national context influences the limitations that are suitable to prevent unnecessary insolvency proceedings in a pandemic. For this, we focus on three jurisdictions, namely Germany, Belgium and the Netherlands. These three countries provide a palette of varying national legal backgrounds, both in terms of pre-existing national insolvency law, particularly the criteria to open insolvency proceedings, and in terms of measures taken during the pandemic to limit the access to insolvency proceedings.

Lastly, we evaluate the limitations placed on the entry into insolvency proceedings, by comparing their effects in these three countries, both against each other, and as against the times before the pandemic, also in an economic context.