**Environmental Claims in Insolvency Law**

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Climate change, understood as long-term shifts in temperature and weather patterns, and the corresponding economic, political and social responses, have raised existential questions for companies: adapt or “die”? In highly exposed sectors, such as ski resorts in Switzerland, the question is how to ensure that financially stressed companies address and remedy the environmental changes they have caused (e.g. by building ski lifts) before they become insolvent. This applies both to environmental damage that has already occurred and can be quantified, and to future environmental damage.

A company can be held responsible for the environmental damages it causes under public and private law as long as it remains solvent. However, in the event of a company becoming insolvent or being on the brink of insolvency, questions arise regarding the treatment and ranking of environmental claims, the possible and potential creditors, as well as the significance of the “polluter pays” principle in the context of liquidation or restructuring proceedings.

This paper explores these questions in Swiss insolvency and environmental law, drawing on an empirical study of recent bankruptcy and restructuring proceedings involving Swiss ski resorts, Nord Stream 2 and other large-scale infrastructure projects. The paper examines the possibilities of keeping a company alive until all environmental damages are remediated. In that vein, it investigates the responsibility of directors for properly cleaning up and closing down old industries. It also considers the possibility of establishing a fund for environmental liabilities (in particular such similar to the Swiss contamination fund pursuant to art. 32e of the Environmental Protection Act and the Ordinance on the Charge of the Remediation of Contaminated Sites), to cover environmental damages in restructuring proceedings. In the context of restructuring, this fund, combined with the risk of liability claims, could incentivise directors to adapt the company to the changing climate and meet their environmental obligations.