The European Insolvency Regulation

The constant increase in international economic relationships has led to a continuous rise in international insolvency proceedings in which the effects of the insolvency extend to various countries as a result of the companies, assets or creditors outside the State in which the insolvency order is issued. Furthermore, these proceedings are becoming increasingly complex in themselves. Within the European Union, the need for a cross-border solution led to the Council Regulation on Insolvency Proceedings?, which follows the recommendations of the United Nations Commission on International Trade Law?, with the aim of providing creditors not resident in the state opening the insolvency proceedings with the possibility of requesting the admission of claims, and conferring on the insolvency bodies the powers necessary to act in respect of assets located in the territory of other States. Although the Council Regulation constitutes an important step forward regarding the conduct of international insolvency proceedings, it has not unified insolvency law. It is still possible, even within the European Union, for several insolvency proceedings to be opened simultaneously -even though one of them will be the main insolvency proceedings- and for the same insolvency proceedings to be subject to different laws. This work starts with an analysis of the European Community regulations and then provides an overview of the legislation of each State, summarising current proceedings, some recently changed, and analysing the solution offered under each legislation for matters on which the Council Regulation on Insolvency Proceedings stipulates that the law of the country in which the insolvency order is issued shall not necessarily be applicable. This work includes contributions from professionals specialised in insolvency law with proven and accredited practical and teaching experience in the best European law firms, who not only analyse the legal system applicable in their respective country, but who also suggest solutions for the numerous problems with which they are faced in daily practice. This feature makes this book especially valuable for scholars, practicing lawyers and for other professionals involved in insolvency proceedings. Given the scale of the task, only an international publisher such as Thomson Reuters could have successfully coordinated and edited the book.

Revision of the European Insolvency Regulation
The European Insolvency Regulation (EIR) Freedom of establishment is one of the four fundamental freedoms of the European Union. The principle is that natural persons who are European Union Citizens, and legal entities formed in accordance with the law of a Member State and having its registered office, central administration or principal place of business within the EU, may take up economic activity in any Member State in a stable and continuous form regardless of nationality or mode of incorporation. This book examines the way in which EU law has influenced how national courts in Europe assert jurisdiction in cross-border corporate disputes and insolvencies, and the mechanism which allows them to decide which national law should apply to the substance of the dispute. The book also considers the potential for EU Member States to compete for devising national corporate and insolvency legislation that will attract incorporations or insolvencies. Central to the book is the concept of national choice of law. In considering the impact of freedom of establishment on private international law for corporations, the book uniquely analyses both corporate and insolvency law together, presenting the topic in the broadest possible sense. Importantly, the doctrine of abuse in corporate and insolvency law is covered, raising the question of 'forum shopping' and regulatory competition which underpins the intersection between freedom of establishment and private international law. Through examination of the most recent and leading judgments of the European Court of Justice in Centros and Cadbury Schweppes, the book derives certain conclusions as to the operation of the doctrine of abuse and the limits thereof in the context of freedom of establishment. Being the first in the field to examine the leading ECJ cases of Inspire Art, Sevic and Cartesio regarding the real seat...
doctrine, the book makes the judgment that there is no incompatibility as such between the doctrine and the freedom of establishment. Ultimately, the book analyses to what extent diversity in the corporate and insolvency laws of the Member States should be preserved, so as to encourage competition between jurisdictions in Europe.

**The Grand Project** The new European Insolvency Regulation (Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings) has come into effect on 26 June 2017 for insolvency proceedings that are opened on or after that date. The Recast Regulation reforms the EC Regulation (1346/2000) on insolvency proceedings. The main changes of the Regulation are: The extension of its application to preventive insolvency proceedings; The creation of publicly accessible online insolvency registers; The possibility of avoiding the opening of multiple proceedings and preventing ‘forum shopping’; The introduction of new procedures with the aim of facilitating cross-border coordination and cooperation between multiple insolvency proceedings in different Member States relating to members of the same group of companies. In this book a team of experienced insolvency law experts, among them judges, insolvency practitioners and academics, analyse the European Insolvency Regulation article by article. The authors focus on the new provisions and mechanisms as well as on the existing, and to a great extent still relevant, case law by the European Court of Justice and courts of the Member States.

**International Insolvency Law** This book is a comprehensive commentary on the EIR in light of recent decisions of the ECJ and decisions of the judicatures of the various Member States of the EU. It contains a commentary on Article 102, Sections 1 to 11 of the German EGInsO (The Act Introducing the Insolvency Act), as well as country reports on the international insolvency laws of France, Great Britain, and Hungary. This book also deals with the UNCITRAL Model Law on Cross-Border Insolvency together with detailed references to the international insolvency laws of the U.S.A., and it also includes a discussion of protocols. The appendix to the commentary on Article 3 of the EIR contains an extensive Table of Cases, which sets out over 100 cases from the various Member States, including decisions and literature references. While thus being tailored to the needs of the European insolvency practitioner, this commentary also serves as a knowledge-base from which further exploration of the material can begin. The contributing authors are all well-respected academics and practitioners in Germany, England, France, Hungary, and the U.S.A.

**The First Decade of the European Insolvency Regulation and the Reform Proposals for the Community Legislation with Special Regard to the COMI Concept and Forum Shopping**

European and National Perspectives on the Application of the European Insolvency Regulation In the European Union, the effectiveness of judicial protection granted to a business or consumer in crisis depends on the extent and manner in which court rulings in bankruptcy and restructuring cases are recognised in all Member States. This article-by-article commentary on Regulation (EU) 2015/848 provides expert guidance through the entire course of insolvency proceedings, clearly showing how to solve specific problems that arise in insolvency cases with a cross-border element, including aspects such as jurisdiction, applicable law, recognition and enforceability of judgments and coordination of group of companies’ insolvencies. For any party instituting an insolvency proceeding in an EU Member State, the commentary provides such detailed guidance as the following: identifying the appropriate internationally competent court for filing; terms pursuant to which a judgment can be recognised; duties of an insolvency practitioner (IP); IP’s authority in the territory of another state; IP’s obligations towards creditors in another state; rights of foreign creditors; admissibility of conducting secondary insolvency proceedings; conducting simultaneous insolvency proceedings against the same debtor; permissible forms of contact and cooperation between judges and parties to the proceedings; and conducting proceedings involving a group of companies. An important feature of the commentary highlights the standpoints of lawyers from Central and Eastern Europe, where the commercial judiciary operates in a distinctly different way from that in countries with a well-established market economy system. Interpretation of provisions of the Regulation by lawyers from this part of Europe enhances the scope of legal argument both in the economic sphere and in the sphere of justice. With its detailed and in-depth description of international jurisdiction, recognition, and universal and territorial effects of insolvency proceedings, this practical book will be welcomed by counsel to business persons conducting international activity, trustees in bankruptcy, tax advisers, court enforcement officers, academics dealing with insolvency law, banks dealing with the collection of receivables, and debt collection
companies. In addition, as a contribution to the debate on the optimal model for the international consequences of insolvency proceedings, its discussion of issues related to national jurisdiction, bankruptcy and restructuring of groups of companies, and international judicial cooperation will be particularly valuable for researchers.

European Insolvency Law With the growth of international business and the rise of companies with subsidiaries around the world, the question of where a company should file bankruptcy proceedings has become increasingly complicated. Today, most businesses are likely to have international trading partners, or to operate and hold assets in more than one country. To execute a corporate restructuring or liquidation under several different insolvency regimes at once is an enormous and expensive challenge. With International Bankruptcy, Jodie Adams Kirshner explores the issues involved in determining which courts should have jurisdiction and which laws should apply in addressing problems within. Kirshner brings together theory with the discussion of specific cases and legal developments to explore this developing area of law. Looking at the key issues that arise in cross-border proceedings, International Bankruptcy offers a guide to this legal environment. In addition, she explores how globalization has encouraged the creation of new legal practices that bypass national legal systems, such as the European Insolvency Framework and the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law. The traditional comparative law framework misses the nuances of these dynamics. Ultimately, Kirshner draws both positive and negative lessons about regulatory coordination in the hope of finding cleaner and more productive paths to wind down or rehabilitate failing international companies.

The Enduring Forum Shopping Phenomenon

Freedom of Establishment and Private International Law for Corporations This publication contains a set of 26 EU Cross-Border Insolvency Court-to-Court Cooperation Principles ('EU JudgeCo Principles') along with 18 EU Cross-Border Insolvency Court-to-Court Communications Guidelines ('EU JudgeCo Guidelines'). These EU JudgeCo Principles will strengthen efficient and effective communication between EU Member courts in insolvency cases with cross-border effects. They have been produced in a period of two years (2013-2014), developed by a team of scholars at Leiden Law School and Nottingham Law School, in collaboration with some 50 experts, including 25 judges representing just as many different EU countries. The principles are set in EU stone, in that they especially function within the framework of the EU Insolvency Regulation. The texts have been aligned with the text of the recast of the Regulation, as published early December 2014. The EU JudgeCo Principles try to overcome present obstacles for courts in EU Member States, such as formalistic and detailed national procedural law, concerns about a judge's impartiality, uneasiness with the use of certain legal concepts and terms, and evidently language. The texts further build on existing experience and tested resources, especially in cross-border cases in North America, but are tailor made into an EU insolvency law context. These Principles include a set of very practical EU JudgeCo Guidelines to facilitate communications in individual cross-border cases. The project was funded by the European Union and the International Insolvency Institute (III) (www.iiiglobal.org) and we thank both sponsors for their continued support. *** Librarians: ebook available on ProQuest and EBSCO (Series: European and International Insolvency Law Studies [EIILS] - Vol. 1) [Subject: EU Law, Insolvency Law, Commercial Law, Comparative Law]

The European Insolvency Regulation

Commentary on the European Insolvency Regulation International Cooperation in Bankruptcy and Insolvency is published in cooperation with the International Insolvency Institute and the American College of Bankruptcy. The Honorable Bruce A. Markell, Dr. Bob Wessels and Prof. Jason Kilborn provide readers with invaluable insights into the origin, development and future of communication and cooperation in cross-border insolvency cases between insolvency practitioners and the courts. The globalization of the world's economy has led to highly complex international aspects of financial reorganization and restructuring. This publication analyzes the structures, systems, and practices that have developed and are quickly emerging to coordinate and enhance international administrations.

European Insolvency Regulation "Regulation No 1346/2000 of 29 May 2000 External Evaluation of Regulation (EIR) is the cornerstone of European insolvency law. The Regulation, which is directly
applicable in all Member States, is the legal basis for cross-border insolvencies within the European Union. Paving the way for a new European insolvency law, the Heidelberg-Luxembourg-Vienna Report carries out a comprehensive legal and empirical evaluation of European insolvency law practice in the Member States. Based on thorough analyses the general reporters evaluate the Regulation and provide recommendations for its current revision."

**European Insolvency Regulation**

**The European Insolvency Regulation**

**Cross Border Insolvencies in EU, English and Belgian Law**

Maritime Cross-Border Insolvency The insolvency of multinational corporate groups creates a compelling challenge to the commercial world. As many medium and large-sized companies are multinational companies with operations in different countries, it is important to provide appropriate solutions for the insolvency of these key market players. This book provides a comprehensive overview of the cross-border insolvency theories, practical solutions and regulatory solutions for the insolvency of multinational corporate groups. Whilst the book recognises certain merits of these solutions, it also reveals the limitations and uncertainty caused by them. An analysis of the provisions and tools relating to cross-border insolvency of multinational corporate groups in the new EU Regulation on insolvency proceedings 2015, the UNCITRAL Model Law on cross-border insolvency, the Directive on preventive restructuring frameworks and the Bank Recovery and Resolution Directive 2014, along with a study of directors’ duties, are included in this book. This book focuses on the insolvency and rescue of non-financial corporate groups. However, it is also important to recognise the similarities and differences between corporate insolvency regimes and bank resolution regimes. In particular, lessons learnt from bank resolution practices may be useful for non-financial corporate groups. This book aims to provide an in-depth examination of the existing solutions for the insolvency of multinational corporate groups. It also aims to view cross-border insolvency of corporate groups within a broad context where all relevant regimes and theories interact with each other. Therefore, directors’ duties in the vicinity of insolvency, preventive insolvency proceedings, procedural consolidation, international cooperative frameworks and bank resolution regimes are considered together. This book may appeal to academics, students and practitioners within the areas of corporate law, cross-border insolvency law and financial law.

**European Insolvency Proceedings**

Current Issues in European Financial and Insolvency Law This book presents a comprehensive analysis of the regulation of cross-border insolvencies in Europe. Council Regulation 1346/2000 on Insolvency Proceedings forms the natural focal point of such a study. However, while this book explores in detail the background, legal basis as well as the substance of the Regulation, it also contains an examination of the Regulation from two wider perspectives: that of international cross-border insolvency regulation and Community law. The approach adopted by the Regulation to the problems raised by cross-border insolvency forms part of a paradigmatic shift at the global level. The 'struggle over jurisdiction' - the natural state of affairs under the old principles of 'universality & territoriality' - is increasingly being replaced by co-operation between the jurisdictions involved. The Regulation must be understood against the backdrop of these new cooperative approaches, including the UNCITRAL Model Law and ancillary proceedings. Doing so, this book argues that the co-operative framework of the Regulation is limited and may ultimately not suffice to realise the efficient and effective cross-border proceedings it is aiming for. Although the Regulation is an exponent of this global shift towards cooperation, the legal context in which it operates is nevertheless very different. Community law, as an autonomous legal order, has limited the private international law autonomy of Member States and generated a comitas Europaea. This book argues that Community law and its comitas must be taken seriously. They are an important source of principles to guide courts in the interpretation and application of the Regulation and may reinforce and expand the co-operative mechanisms of the Regulation. Jona Israel obtained his LL.M. at the University of East Anglia, Norwich in 1994 and graduated at the University of Maastricht in 1995. From 1995 to 1998 he was researcher at the European University Institute in Florence, Italy. Since 1998 he has been lecturer at the University of Maastricht, teaching private international law, insolvency law and commercial law.
Recasting the Insolvency Regulation

Security rights are of fundamental importance to the granting of credit. They are generally considered to increase the availability and lower the cost of credit, but there appear to be divergent views across Europe and elsewhere on the extent to which it should be possible to create security rights over assets. Moreover, laws in many countries, such as avoidance laws, strike at advantage-gaining by creditors in the period immediately before formal insolvency proceedings are instituted. It is seen as potentially unfair to other creditors who may be forced into taking enforcement proceedings against the debtor, which may precipitate the premature liquidation of the debtor with an overall loss of economic value. This book assesses the conception of security rights according to the different European legal traditions. It also evaluates the appropriateness of the protection given to security rights in light of: developments in those European legal traditions; the objective of the Insolvency Regulation to facilitate the more effective administration of cross-border insolvency cases; the need for security in the context of the financial crisis; the basic principles of ensuring fairness between creditors; forestalling premature liquidation; and reinforcing the collective nature of the insolvency process. [Subject: Finance Law, European Law]

International Bankruptcy

The Implementation of the New Insolvency Regulation

This second edition of the leading commentary on the European Insolvency Regulation reflects the impact of Brexit and the European Restructuring Directive. It continues to be a vital reference work for all those researching and advising European insolvency law.

Commentary on the European Insolvency Regulation

A Guide to Consumer Insolvency Proceedings in Europe

European Insolvency Regulation Since the adoption of the EU Regulation on Insolvency Proceedings in 2000 and its recast in 2015, it has become clear that lawyers engaged in consumer insolvency proceedings are increasingly expected to have a basic understanding of foreign insolvency proceedings, as well as knowledge of the foreign country's court and legal system, legislation and judicial practice. Written by 50 highly qualified insolvency experts from 30 European countries, A Guide to Consumer Insolvency Proceedings in Europe provides the necessary information in the largest, most up-to-date and comprehensive book on this topic. Assisting the readers in their navigation through the differences, similarities, and peculiarities of insolvency proceedings in all Member States of the European Union, Switzerland and Russia, this book is a unique guide to insolvency proceedings across Europe. With contributions by both academics and practitioners, it provides truly multinational coverage of the economic, legal, social, political, and demographic issues in consumer insolvency. Illustrating the numerous practices across Europe, this book allows the reader to evaluate each aspect both on its own merits, as well as in comparison to the approaches applied in other European jurisdictions. This book will be an invaluable tool for insolvency practitioners, judges, lawyers, creditors and debtors throughout Europe, especially those participating in cross-border proceedings.

Forum Shopping in Insolvency Law

Critically analysing the substantive law of insolvency in the EU countries as a whole, this book carries out horizontal cross-cutting analysis of the data gathered from a study of national insolvency laws. It selects particular areas for detailed discussion and considers the pros and cons of particular legislative solutions. Using the US and Norway as comparator countries, the expert authors identify areas where disparities in national laws produce problems that have impacts outside national boundaries. They analyse these against key policy goals including: improving economic performance throughout the EU; promoting a more competitive business environment; efficient asset allocation; and building more stable and sustainable human capital in terms of support for entrepreneurs and responses to consumer overindebtedness. The book also considers possible reform and harmonization measures situated against the wider contextual background of the Capital Markets Union and the Europe 2020 agenda of promoting jobs and growth. Discerning and practical, European Insolvency Law will appeal to academics in both insolvency and finance as well as insolvency practitioners and lawyers. Its reform suggestions will be of interest to EU Member States' government departments, while also providing a useful reference for consumer associations and debt charities.
International Cooperation in Bankruptcy and Insolvency Matters

Recent case-law and legislation in European company and insolvency law have significantly furthered the integration of European business regulation. In particular, the case-law of the European Court of Justice and the introduction of the EU Insolvency Regulation have provided the stimulus for current reforms in various jurisdictions in the fields of insolvency and financial law. The UK, for instance, has adopted the Enterprise Act in 2002, designed, inter alia, to enhance enterprise and to strengthen the UK's approach to bankruptcy and corporate rescue. In a similar vein, a recent reform in France has modernised French insolvency law and even introduced a tool similar to the successful English 'company voluntary arrangement' (CVA). This book provides a collection of studies by some of the leading English and French experts today, analysing current perspectives of insolvency and financial law in Europe, both on the national as well as on the European level.

European Cross-border Insolvency Regulation

Inhaltsangabe: Abstract: The aim of this dissertation is to analyse the potential clash of the principle of free establishment and the creditor protection principles in Germany. It researches the position of unsecured creditors of insolvent pseudo-foreign companies following the rulings of the European Court of Justice in Segers, Centros, Überseering and Inspire Art with the focus on German creditors of companies with limited liability incorporated in England and Wales. Research is carried out through reviewing and analysing academic and professional opinions voiced concerning the applicability, restricted or non-applicability of specific German creditor protection instruments following the ECJ rulings considering that the law of the country of incorporation governs foreign companies. European case law defining the current understanding of the fundamental freedom of establishment is reviewed and contrasted with subsequent rulings by German courts involving insolvent English companies. The result of the analysis shows that the number of English limited companies (Limited) is still relatively insignificant compared to the total number of German GmbH companies. Limiteds don't seem to replace the GmbH and don't yet present a threat to the German economy. Questionable is the accuracy and completeness of company information a German creditor can obtain. The main reason is the lack of a formalized or regulatory information process between the company registers of England and Germany. Based on the research performed it can be concluded that the principles of creditor protection in Germany differ greatly from those applied in England. The German creditors can no longer rely on the applicability of German creditor protection instruments and face legal uncertainties. In Germany the majority of creditor protection instruments are part of company law, in England they are part of insolvency laws. The European Insolvency Regulation is not specific enough to solve these uncertainties and can even aid forum shopping. Until further clarifications are provided by the ECJ through appropriate case law the situation will remain highly unsatisfactory for the German creditor.

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European Insolvency Law

One of the most contentious issues in cross-border insolvency is the 'forum shopping' phenomenon. The European Insolvency Regulation has set as one of its core objectives to avoid forum shopping. Nevertheless, the phenomenon continues to flourish due to the ability of a debtor to transfer its 'Centre of Main Interests'. This strategy has been creatively used by companies and over-indebted individuals in order to avail themselves of more advantageous insolvency regimes. Such practice, however, is viewed with suspicion by media and legal practitioners. This study questions the adverse reaction towards forum shopping. It argues that forum shopping is not always undesirable, but can also have beneficial effects when is undertaken with the consent of the stakeholders involved. It concludes that as long as disparities between insolvency laws exist the phenomenon is destined to endure.

Security Rights and the European Insolvency Regulation

Updated to reflect recent case law and modifications to the EU Insolvency Regulation, this book is a primer that covers jurisdictional issues, "winding-up" procedures such as the appointment of a liquidator, recognition of judgments, creditors' rights and other provisions. Written by Prof. Bob Wessels of University of Leiden Law School in the Netherlands, this book is an invaluable resource for professionals who find themselves increasingly involved in cross-border insolvency cases.

European Insolvency Regulations
The European Insolvency Regulation and Groups of Companies Maritime Cross-Border Insolvency is a comprehensive comparative examination of both insolvency regimes (UNCITRAL and EU) in shipping with reference to the main jurisdictions having adopted the UNCITRAL regime, i.e. USA, UK, Greece.

Insolvency Law and Multinational Groups This book presents problems that often arise in the context of international/cross-border insolvencies; analyzes and compares national legislations and jurisprudence; elucidates the solutions offered by international/regional instruments; and explores the differences in the implementation of these instruments by various countries and the consequences of these differences. It examines in detail a number of famous and less famous cases tried by national courts, in which it became readily apparent that insolvency law remains one of the bastions of national law. In addition, the book discusses the notion of transplanting foreign [international] insolvency rules and especially the influence that US insolvency law has exerted on other countries’ insolvency [and international insolvency] law. Far from adopting an unrealistically optimistic stance, it soberly examines the complications of cross-border insolvencies, while also presenting potential solutions.

How to Use the European Insolvency Regulation After many years of negotiations among Member States, a uniform set of private international law rules has been established to determine the conduct of cross-border insolvency proceedings within the European Community. This is the European Insolvency Regulation of May 2000. Although each state still retains its own insolvency law, the regulation greatly reduces the risk of opportunistic behaviour by providing certainty as to which European courts have jurisdiction to open insolvency proceedings and which state's laws apply, in addition to ensuring the cross-border effectiveness within the EU of the decisions handed down by those courts. This in-depth commentary offers practitioners in international business transactions and litigation a definitive guide to the workings of the Insolvency Regulation. The authors?one of whom co-wrote the official explanatory report on the 1995 Convention on Insolvency Proceedings, a report that still plays a fundamental hermeneutic role?leave no stone unturned in their probing analysis, which explains in detail such elements as the following: relationship with other community legal instruments and international conventions; territorial scope; substantive scope; third-party rights in rem and reservation of title; set-off; contracts relating to immovable property; employment contracts and relationships; payment systems and financial markets; community patents and trademarks; publication and registration; lodgement of claims; and special considerations affecting credit institutions and insurance undertakings. Company lawyers handling insolvency cases and issues will find nothing comparable to this expert work. Its direct practical usefulness is immediately apparent. In addition, however, it stands out as a preeminent work on a critical and hard-won legal instrument (and by extension on the entire field of European insolvency law) and as such is an essential resource for jurists and legal academics.

Eu Cross-Border Insolvency: Court-To-Court Cooperation Principles


Freedom of Establishment versus Creditor Risk in Germany: A Clash of Principles? The planned European legal form Societas Privata Europaea (SPE) is a limited liability company of a closed group of shareholders, and thus is comparable to the German GmbH. At the European-level, the
SPE serves as a supplement to the European Limited Liability Company (SE), which proved to be too difficult for small and medium-sized companies for various reasons. The SPE will be introduced on the basis of a European regulation, the content of which has been largely agreed to by the member states.

European Insolvency Regulation This book provides the most detailed article-by-article commentary on the revised EC Regulation on Insolvency Proceedings (EIR), written by a group of experts drawn from several jurisdictions. The commentary is prefaced by an introductory chapter which provides an overview on scope and the key features of the EIR. This new commentary has been published in time to cover the long-awaited and much-debated revised Regulation which was finalized in 2015. The timing of publication will enable practitioners and scholars to equip themselves with a thorough understanding of the EIR ahead of full implementation in 2017. The article-by-article analysis has a multi-jurisdictional focus which reports and evaluates significant developments in the application of the Regulation across member states. This is a key new work for all those who advise on or research European insolvency law.

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