

European Preventive Restructuring

Paulus / Dammann

2021

ISBN 978-3-406-75350-3

C.H.BECK

schnell und portofrei erhältlich bei
beck-shop.de

Die Online-Fachbuchhandlung beck-shop.de steht für Kompetenz aus Tradition. Sie gründet auf über 250 Jahre juristische Fachbuch-Erfahrung durch die Verlage C.H.BECK und Franz Vahlen.

beck-shop.de hält Fachinformationen in allen gängigen Medienformaten bereit: über 12 Millionen Bücher, eBooks, Loseblattwerke, Zeitschriften, DVDs, Online-Datenbanken und Seminare. Besonders geschätzt wird beck-shop.de für sein umfassendes Spezialsortiment im Bereich Recht, Steuern und Wirtschaft mit rund 700.000 lieferbaren Fachbuchtiteln.

Paulus/Dammann
European Preventive Restructuring


beck-shop.de
DIE FACHBUCHHANDLUNG

beck-shop.de
DIE FACHBUCHHANDLUNG

European Preventive Restructuring

Directive (EU) 2019/1023

Article-by-Article Commentary

edited by

Christoph G. Paulus

Reinhard Dammann

beck-shop.de
DIE FACHBUCHHANDLUNG

2021



Published by

Verlag C.H.Beck oHG, Wilhelmstraße 9, 80801 München, Germany
email: bestellung@beck.de

Co-published by

Hart Publishing, Kemp House, Chawley Park, Cumnor Hill, Oxford, OX2 9PH, United Kingdom
online at: www.hartpub.co.uk

and

Nomos Verlagsgesellschaft mbH & Co. KG, Waldseestraße 3–5, 76530 Baden-Baden, Germany
email: nomos@nomos.de

Published in North America by Hart Publishing

An Imprint of Bloomsbury Publishing 1385 Broadway, New York, NY 10018, USA
email: mail@hartpub.co.uk

Suggested citation:

Author, in: Paulus/Dammann,

European Preventive Restructuring, Art. ..., mn

beck-shop.de
DIE FACHBUCHHANDLUNG
www.beck.de

ISBN 978 3 406 75350 3 (C.H.BECK)

ISBN 978 1 5099 3881 0 (HART)

ISBN 978 3 8487 6955 1 (NOMOS)

© 2021 Verlag C.H.Beck oHG

Wilhelmstr. 9, 80801 München

Printed in Germany by

Beltz Grafische Betriebe GmbH

Am Fliegerhorst 8, 99947 Bad Langensalza

Typeset by

Reemers Publishing Services GmbH, Krefeld

Cover: Druckerei C.H.Beck Nördlingen



chbeck.de/nachhaltig

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, without the prior permission of Verlag C.H.Beck, or as expressly permitted by law under the terms agreed with the appropriate reprographic rights organisation.

Enquiries concerning reproduction which may not be covered by the above should be addressed to C.H.Beck at the address above.

Preface

As a commentary this book follows the German tradition in legal writings which emanates from the medieval times of the glossators. What is special, though, is the internationality of its authors, which the entire group thought to be the appropriate way to deal with the new European instrument of a preventive restructuring framework and its accompanying features. Moreover, a considerable number of the present authors had been members of the expert group which was called by the Commission to support the preparation of that very instrument. Insofar, this commentary might be seen as a sort of pan-European effort to revitalize a previously common type of interpretation performed by highly qualified experts which guarantee that the old form is filled with most up-to-date contents.

The purpose of this commentary is manifold: Since a Directive is, as it were, a transitional form of legislation insofar as it is designed to become modified and individualized by national legislation, much of the present interpretation, ideas and opinions is meant to inspire those who are in charge of drafting those national laws. But the authors' intent goes beyond in giving guidance for additional and future interpretations. The purpose is to unveil the complexities which are to be taken into account when introducing the new features of the Directive. Insofar the envisaged addressees of this book include practitioners, judges and advisers and all those who will have to deal with the new instruments.

Berlin/Paris, November 2020

Christoph Paulus and Reinhard Dammann

beck-shop.de
DIE FACHBUCHHANDLUNG

beck-shop.de
DIE FACHBUCHHANDLUNG

Table of Contents

Preface	V
Selected Bibliography	XV
List of Authors	XVII

Introduction (*Paulus*)

A. General overview; structure	1
I. The goals of the Directive	1
II. Structure	3
B. Historical development	4
C. Relationship to EU 2015/848; cross-border issues	6
D. Global positioning of the new instrument	7

DIRECTIVE (EU) 2019/1023 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	9
---	----------

Title I

General Provisions

Article 1. Subject matter and scope (<i>Dammann</i>)	35
A. Purpose	36
B. Proceedings and measures falling within the scope of the Directive	37
I. Preventive restructuring frameworks	37
1. The development of hybrid, preventive, semi-collective restructuring proceedings	37
2. The approach of the Directive	37
3. The exclusion of classical insolvency proceedings from the scope of the Directive	39
4. Judicial composition versus court-assisted contractual approach	41
5. Transposition by amending existing preventive insolvency proceedings	42
6. The two-step approach	43
II. Proceedings leading to a discharge of debts	45
III. Measures to increase the efficiency of procedures concerning the restructuring, insolvency and discharge of debt	45
C. Group of companies	46
D. Excluded classes of debtors	46
E. Excluded categories of claims	48
F. Possibility to limit preventive restructuring framework to financial restructuring?	49
G. The size of the debtors	50
H. The relationship between the Directive, the EIR 2015 and Brussels Ia	50
I. Cross-border aspects of preventive restructurings	50
II. The relationship between the Directive and the EIR 2015	51
III. The scope of the EIR 2015	51
IV. The scope of the EIR 2015 in light of the Directive	52
V. The consequence of the application of the EIR 2015 to restructuring frameworks	55
VI. The advantage of the two-step model	56
VII. The application of Brussels Ia	56
VIII. The relationship between the Directive and the Transfer Directive	58
Article 2. Definitions	59
A. Purpose of the norm (<i>Paulus</i>)	60
B. Definitions	61
I. lit. 1: Restructuring (<i>Dammann</i>)	61
II. lit. 2: Affected parties (<i>Veder</i>)	63

Table of Contents

III. lit. 3: Equity holder (<i>Garcimartin</i>).....	64
IV. lit. 4: Stay of individual enforcement actions (<i>Richter</i>).....	64
V. lit. 5: Executory contract (<i>Richter</i>).....	67
VI. lit. 6: Best-interest-of-creditors test (<i>Veder</i>).....	68
VII. lit. 7: New financing (<i>Lynch Fannon</i>)	69
VIII. lit. 8: Interim financing (<i>Lynch Fannon</i>).....	71
IX. lit. 9: Entrepreneur (<i>Paulus</i>).....	74
X. lit. 10: Full discharge of debt (<i>Paulus</i>).....	75
XI. lit. 11: Repayment plan (<i>Paulus</i>).....	75
XII. lit. 12: Practitioner in the field of restructuring (<i>Veder</i>).....	76
C. Par. 2 (<i>Paulus</i>).....	76
I. Insolvency.....	77
II. Likelihood of insolvency.....	77
III. Micro, small and medium-sized enterprises ("SMEs").....	77
Article 3. Early warning and access to information (<i>Rammeskow</i>)	78
A. Purpose of the norm.....	78
B. Duty of Member States to establish early warning tools.....	79
C. Should early warning tools also apply to consumers etc.?.....	79
D. Which early warning tools must be available?	80
I. Alert mechanisms	80
II. Advisory services.....	81
III. Directors' duties to act upon an early warning	82
E. Information to employee representatives on early warning tools.....	83
F. Easy accessible online information about early warning tools	83
G. Support to employees' representatives.....	83

Title II

Preventive Restructuring Frameworks

Chapter 1. Availability of preventive restructuring frameworks	85
Article 4. Availability of preventive restructuring frameworks (<i>Garcimartin</i>).....	85
A. Purpose.....	86
B. Structure.....	87
C. Availability of preventive restructuring frameworks	87
I. Introduction	87
II. Preventive restructuring frameworks	87
III. The likelihood-of-insolvency test.....	89
D. Suspicious debtors	91
E. Viability test.....	92
F. Number of times.....	93
G. Procedural aspects.....	94
I. General aspects.....	94
II. Minimum intervention of judicial or administrative authorities.....	95
H. Initiative	96
Chapter 2. Facilitating negotiations on preventive restructuring plans	97
Article 5. Debtor in possession (<i>Veder</i>).....	97
A. Purpose of the norm.....	97
B. Debtor-in-possession	98
C. Appointment of a practitioner in the field of restructuring.....	100
I. General remarks.....	100
II. Discretion.....	101
III. Mandatory appointment	101
D. Practitioner in the field of restructuring.....	102
Article 6. Stay of individual enforcement actions (<i>Richter</i>).....	103
A. General comments.....	105
B. Specific parameters of the stay.....	105

Table of Contents

I. The specific purpose of the stay (Article 6 par. 1 1 st subparagraph).....	105
II. Official discretion at the point of entry (Article 6 par. 1 2 nd subparagraph).....	106
III. The claims subject – and not the subject – of the stay (Article 6 par. 2)	107
IV. The nature of the stay (Article 6 par. 3 1 st subparagraph).....	109
V. The limited stay (Article 6 par. 3 2 nd subparagraph)	109
VI. Claims which Member States may exempt from the stay (Article 6 par. 4).....	110
1. The two general pre-requirements	110
2. The two specific conditions	111
a) Enforcement not likely to jeopardise the restructuring (Article 6 par. 4 lit. a)	112
b) Unfair prejudice (Article 6 par. 4 lit. b).....	114
3. The procedural context.....	115
VII. Employees' claims (Article 6 par. 5).....	116
VIII. The initial duration of the stay (Article 6 par. 6).....	117
IX. Extensions and renewals (Article 6 par. 7)	117
X. Limitations on the overall duration of the stay (Article 6 par. 8).....	119
XI. Termination of the stay via official discretion (Article 6 par. 9).....	120
1. A stay litigation standstill period.....	120
2. An opportunity to be heard.....	120
3. The grounds for lifting the stay	121
C. The debtor's powers and duties during the stay	123
Article 7. Consequences of the stay of individual enforcement actions (<i>Richter</i>)	124
A. General comments.....	126
B. Specific rules related to the stay.....	126
I. Commencement of formal insolvency proceedings.....	126
1. Suspension of the debtor's duty to file (Article 7 par. 1).....	126
2. Suspension of the creditors' right to file (Article 7 par. 2).....	127
3. Derogations from the safe-harbours (Article 7 par. 3).....	128
II. The debtor's contracts.....	130
1. Preservation of essential executory contracts (Article 7 par. 4 1 st subparagraph)	130
a) What is the prohibition?	130
b) When does the prohibition apply?	131
c) What does the prohibition apply to?	132
d) Against whom the prohibition applies.....	133
e) For how long does the prohibition apply?.....	134
2. Safeguards awarded to the debtor's counterparties (Article 7 par. 4 2 nd subparagraph).....	134
3. Extension of the prohibition to non-essential contracts (Article 7 par. 4 3 rd subparagraph)	135
4. <i>Ipsa facto</i> clauses (Article 7 par. 5)	135
5. The ultimate fate of the debtor's contracts	137
III. Netting arrangements (Article 7 par. 6)	138
IV. Expiry of the stay (Article 7 par. 7).....	139
V. Set-off.....	140
Chapter 3. Restructuring plans	141
Article 8. Content of restructuring plans (<i>Veder</i>)	141
A. Purpose of the norm.....	142
B. Minimum content of the plan	142
I. Information regarding the (financial situation of the) debtor	142
II. Affected parties.....	143
III. Terms of the plan	144
IV. Statement relating to the prospects of the restructuring.....	145
C. Checklists.....	145
D. Third-party releases	145
Article 9. Adoption of restructuring plans (<i>Dammann</i>).....	146
A. Introduction	148
B. Preliminary remark: the concept of 'affected parties'	149

Table of Contents

I. The legal framework.....	149
II. The choice for the proposer of the plan to carve out unaffected parties	151
C. Submission of restructuring plans, Article 9 par. 1	153
I. The submission of the restructuring plan by the debtor	153
II. The submission of the restructuring plan by the practitioner in the field of restructuring	154
III. The submission of competing restructuring plans by creditors.....	154
D. Voting rights, Article 9 par. 2 and 3	155
E. Classes of creditors, Article 9 par. 4 and 5	156
I. The rationale of class formation.....	156
II. Equity holders.....	157
III. The constitution of additional classes.....	158
IV. The question of mixing up secured and unsecured creditors within the same class.....	160
V. The option to create a separate class for workers' claims	161
VI. The protection of vulnerable creditors	161
VII. The single class option for SMEs	161
VIII. The control of the formation of classes and voting rights by a judicial or administrative authority.....	162
F. Voting Majorities, Article 9 par. 6.....	164
I. Rationale of majority rules	164
II. The flexible approach of the Directive.....	164
III. Best practice	165
IV. The calculation of the voting rights.....	165
G. Agreement with the requisite majority, Article 9 par. 7.....	166
Article 10. Confirmation of restructuring plans (<i>Garcimartin</i>)	167
A. Purpose	168
B. Need of confirmation	168
C. Conditions.....	170
I. Adoption of the plan.....	170
II. Unfair discrimination test.....	171
III. Notification of the plan.....	172
IV. Best-interest-of-creditors test	172
V. New financing.....	174
VI. Burden of allegation	175
D. Viability and Insolvency tests	175
E. Procedure.....	175
Article 11. Cross-class cram-down (<i>Veder</i>)	176
A. Purpose of the norm	177
B. Cross-class cram-down.....	177
C. Request for confirmation by the debtor or with the debtor's agreement.....	180
D. Conditions for confirmation of a non-consensual plan	183
I. General confirmation conditions	183
II. Minimum support test.....	183
III. The fairness test.....	184
1. Relative priority rule.....	185
2. Absolute priority rule	187
E. Practitioner in the field of restructuring.....	189
Article 12. Equity holders (<i>Garcimartin</i>).....	189
A. Purpose	190
B. Structure.....	191
C. Definition of equity holders	191
D. Alternatives	192
I. Introduction: legal background.....	192
II. Equity holders as a class of affected parties.....	193
III. Other means.....	195
IV. SMEs	197
V. Cross-border scenarios	198

Table of Contents

Article 13. Workers (<i>Lynch Fannon</i>).....	198
A. Purpose	199
B. Emergence of Article 13 in the legislative development of the Directive.....	201
C. Purpose	201
D. Interface with other EU employment legislation	202
I. Information and consultation	202
II. Additional Directives which interface with restructuring	204
III. Guarantee of payments of wages, salaries and pension	205
IV. Acquired Rights Directive.....	206
V. New consultation rights.....	208
E. Alternative restructuring proposals, frameworks and approaches.....	208
Article 14. Valuation by the judicial or administrative authority (<i>Dammann</i>).....	209
A. Purpose	209
B. The valuation of the business as a going concern	210
C. The liquidation value of the business	211
D. Judicial valuation only where the plan is challenged	212
E. The procedure to lodge a challenge	212
F. The appointment of experts.....	213
G. Best practice for the transposition of Article 14 of the Directive.....	214
Article 15. Effects of restructuring plans (<i>Richter</i>).....	214
A. The effects of restructuring plans	214
I. Binding effects on affected parties (Article 15 par. 1).....	214
II. Creditors not involved in the adoption of the plan, par. 2.....	215
Article 16. Appeals (<i>Paulus</i>)	216
A. Purpose	216
B. Appeal	217
I. Possibility to appeal, par. 1	217
1. Judicial authority	217
2. Administrative authority.....	218
II. Procedural steps, par. 2 and 3.....	218
III. Decision, par. 4.....	219
Chapter 4. Protection for new financing, interim financing and other restructuring related transactions	220
Article 17. Protection for new financing and interim financing (<i>Lynch Fannon</i>).....	220
A. Introduction	221
B. History.....	222
C. Purpose	224
D. Protection for new and interim financing.....	224
I. The applicability of measures which might render new and interim financing ‘void, voidable or unenforceable’	224
II. Where liability might be incurred in relation to new and interim financing.....	226
III. Interim financing granted after the debtor is unable to pay its debts as they fall due	227
E. Priority for new and interim financing	228
F. Conclusion.....	228
Article 18. Protection for other restructuring related transactions (<i>Lynch Fannon</i>)	229
A. Purpose and background	230
B. The scope of Article 18: introduction	231
C. The scope of the Article: specific provisions.....	232
I. Transactions which are “reasonable and immediately necessary”.....	232
II. Specifically enumerated protected transactions.....	232
III. Timing of Transactions during the negotiation phase.....	233
IV. Transactions entered into during the implementation phase.....	234
D. Implementation of Article 18 – The role of the judiciary and or administrative authority ...	234

Table of Contents

E. Protection from actions or measures which render the transactions void, voidable or unenforceable.....	235
I. Other transactions or commitments which are relevant	236
II. Practical Issues.....	237
Chapter 5. Duties of directors	238
Article 19. Duties of directors where there is a likelihood of insolvency (<i>Corno</i>).....	238
A. Purpose of Article 19 and of the implementing Member States' rules	238
B. Ambit of application.....	239
C. Duties of directors as one of the minimum standards for preventive restructuring procedure	240
D. The long way to Article 19	242
E. Issues to be imposed on directors by Member States as a minimum.....	243
I. Interests of creditors, equity holders and other stakeholders	243
1. Need to have regard to interests of stakeholders	243
2. The possible extension to rights of stakeholders	244
3. Interests of creditors	244
4. Interests of equity holders	245
5. Interest of other stakeholders. Directors' interests	246
II. Need to take steps to minimize losses and avoid insolvency	246
III. Need to avoid deliberate or grossly negligent conduct that threatens the viability of the business	247

Title III

Discharge of Debt and Disqualifications

Article 20. Access to discharge (<i>Paulus</i>).....	249
A. Purpose	249
B. Access to full discharge, par. 1	250
C. Proportionality, par. 2	251
D. Fresh start, par. 3	252
Article 21. Discharge period (<i>Paulus</i>).....	252
A. Purpose	253
B. Start of discharge period, par. 1	253
C. End of discharge period, par. 2	254
D. Permissible side effect, par. 3.....	255
Article 22. Disqualification period (<i>Rammeskow</i>).....	255
A. Purpose of the norm.....	255
B. Article 22 concerns entrepreneurs	256
C. Which kinds of disqualifications must cease according to Article 22.....	257
D. Disqualifications concerning specially supervised activities	258
E. When must a disqualification cease	258
F. No requirement for additional procedures to cease a disqualification	259
Article 23. Derogations (<i>Rammeskow</i>).....	259
A. Purpose of the norm.....	261
B. Entrepreneurs that have acted dishonestly or in bad faith.....	261
C. Derogations in other well-defined circumstances	262
I. Violation of obligations under the repayment plan etc.....	262
II. Failure to comply with information or cooperation duties	263
III. Abusive applications for discharge	263
IV. Limitation of further applications for discharge.....	263
V. The cost of the procedure leading to the discharge of debt is not covered	263
VI. Safeguarding the balance between the rights of the debtor and the rights of one or more creditors.....	264
D. Longer discharge period.....	264
I. Longer discharge period in order to preserve the entrepreneur's business.....	264
II. Longer discharge period where the entrepreneur's main residence is not realised.....	265

Table of Contents

E. Exclusion of certain categories of debt from the discharge	266
F. Longer disqualification periods for certain professions.....	267
I. Professions with specific rules on ethics, reputation or expertise	267
II. Professions dealing with the management of the property of others.....	268
III. Par. 5 apply despite a discharge	268
IV. Par. 5 merely concerns the disqualification period.....	268
G. Disqualifications ordered by other authorities	268
Article 24. Consolidation of proceedings regarding professional and personal debts (<i>Richter</i>)..	269
A. General comments.....	270
B. Specific rules related to consolidation of proceedings	271
I. Inseparable debts (Article 24 par. 1)	271
II. Separable debts (Article 24 par. 2).....	271

Title IV

Measures to increase the efficiency of the procedures concerning restructuring, insolvency and discharge of debt

Article 25. Judicial and administrative authorities (<i>Corno</i>)	273
A. Purpose of Title IV.....	273
B. Scope of Article 25	274
I. Content and reasons of its text.....	274
II. Measures regarding judicial and administrative authorities, when dealing with procedures concerning restructuring, insolvency and discharge of debt (Article 25 par. 1, lit. a).....	275
III. Measures regarding procedures concerning restructuring, insolvency and discharge of debt (Article 25 par. 1, lit. b).....	276
C. Limits to the application of measures set by Article 25	277
D. Ambit of application of the measures set by Article 25.	277
I. Measures set by Article 25, par. 1, lit. a.....	277
II. Measures set by Article 25, par. 1, lit. b.....	278
Article 26. Practitioners in procedures concerning restructuring, insolvency and discharge of debt (<i>Veder</i>).....	278
A. Purpose of the norm.....	279
B. Training and expertise.....	280
C. Eligibility.....	281
D. Appointment, removal and resignation.....	281
E. Objections.....	282
F. Best Practices.....	282
Article 27. Supervision and remuneration of practitioners (<i>Veder</i>).....	283
A. Purpose of the norm.....	283
B. Supervision.....	283
C. Codes of conduct.....	284
D. Remuneration	285
Article 28. Use of electronic means of communication (<i>Paulus</i>).....	285

Title V

Monitoring of Procedures Concerning Restructuring, Insolvency and Discharge of Debt

Article 29. Data collection (<i>Richter</i>)	287
A. General comments.....	288
B. The data to be collected	289
I. A dataset of restructurings and insolvencies (Article 29 par. 1).....	289
II. Repeat filers (Article 29 par. 2).....	289
III. Further data to be collected voluntarily (Article 29 par. 3)	290
IV. Breakdowns of the data collected (Article 29 par. 4)	290
V. Working with samples (Article 29 par. 5).....	291

Table of Contents

VI. Reporting periods, the communication form and presentation of the national data (Article 29 par. 6 to 8)	291
Article 30. Committee procedure (<i>Paulus</i>)	291

Title VI Final Provisions

Article 31. Relationship with other acts and international instruments (<i>Paulus</i>).....	293
Article 32. Amendment of Directive (EU) 2017/1132 (<i>Paulus</i>).....	294
Article 33. Review clause (<i>Paulus</i>)	294
Article 34. Transposition (<i>Paulus</i>)	295
Article 35. Entry into force.....	296
Article 36.	297



Selected Bibliography

Borg/van Zwieten (eds.) *Commentary on the European Insolvency Regulation*, 2016.

Brinkmann (ed.), *The European Insolvency Regulation*, 2019.

Lynch Fannon I and Murphy G, *Corporate Insolvency and Rescue*, 2nd edn. Bloomsbury 2012.

Morgen C, *Präventive Restrukturierung – Kommentar und Handbuch zur Richtlinie über präventive Restrukturierungsrahmen*, 2019.

Richter T and They A, *Claims, Classes, Voting, Confirmation and the Cross-Class Cram-Down*, INSOL Europe Guidance Note on the Implementation of Preventive Restructuring Frameworks under EU Directive 2019/1023, INSOL Europe 2020; available at: <https://www.insol-europe.org/publications/guidance-notes> (cited: Richter/They).

Rotaru, *The Restructuring Directive: A Functional Law and Economics Analysis from a French Law Perspective*, Droit et Croissance, 2019.

Stanghellini/Mokal/Paulus/Tirado, *Best Practices in European Restructuring – Contractualised Distress Resolution in the Shadow of the Law*, Wolters Kluwer – CEDAM, 2018 (cited: Stanghellini/Mokal/Paulus/Tirado, European Best Practices).

Tollenaar N, *Pre-insolvency Proceedings, A Normative Foundation and Framework*, Oxford University Press 2019 (cited: Tollenaar, Pre-insolvency Proceedings).


beck-shop.de
DIE FACHBUCHHANDLUNG

beck-shop.de
DIE FACHBUCHHANDLUNG

List of Authors

Giorgio Corno heads Studio Corno Avvocati, an Italian boutique law firm specialized, among other areas, in cross border insolvency and restructuring cases. An experienced avvocato admitted to practice in front of the Italian Supreme Court, he is also qualified as a solicitor of the Supreme court of England and Wales. He acts as a member of the European Commission Insolvency Experts' Group; of the executive of Ceril – Conference of European Restructuring and Insolvency Law as well as of Insol Europe council (Italy reserved seat).

Reinhard Dammann is a professor at the Law School of Sciences Po and at the Sorbonne University in Paris where he teaches national and international insolvency and securities laws. He is a lawyer based in Paris where he founded his own law firm after heading the restructuring department as partner at Clifford Chance. For the last decade, he has also been a member of the expert group advising the European Commission on the recast of the Insolvency Regulation and the European Preventive Restructuring Directive.

Francisco Garcimartin is a Chair Professor of Law at the University Autónoma of Madrid, and a Consultant at Linklaters SLP. He has published in many of the leading law journals on different aspects of cross-border transactions and insolvency, and has been a member of the Expert Group appointed by the European Commission on the review of the EU Insolvency Regulation and the preparation of a Proposal for a Directive on restructuring and second chance. He is a member of the International Insolvency Institute and INSOL Europe.

Irene Lynch Fannon is a Professor of Corporate Law at the School of Law at University College Cork, Ireland. She is the co-author of *Corporate Insolvency and Rescue* (1996, 2012) a seminal text on Irish insolvency law which has been cited on many occasions in the Irish Courts. She is Chair of the Insolvency Sub Committee of the Irish Company Law Review Group, a statutory body responsible for advising the Irish government on corporate law reform. She is the Principal Investigator of an EU Commission (DG Justice, No. 800807) funded research project on judicial co-operation and corporate rescue (JCOERE). She continues to publish in the area of corporate insolvency and rescue.

Christoph G. Paulus was professor at the Humboldt-Universität zu Berlin holding there a chair for Private Law, Civil Procedure Law, National and International Insolvency Law as well as Roman Law. He had served repeatedly as Consultant both for the IMF and the World Bank, and was i.a. a member of the expert group advising the European Commission on the European Preventive Restructuring Directive. He is now working as Of Counsel with White & Case, Berlin, as well as Associate Member of South Square, London.

Ulrik Rammeskov Bang-Pedersen is a professor at the University of Copenhagen, where he holds the chair in insolvency law and secured financing. He has been employed at the University of Copenhagen in 1995 and has been a full professor since 2004. He became doctor juris in 2002 based on a dissertation on international insolvency law. He is the Chairman of the Danish Bankruptcy Council, which advises the Danish Government on all changes of insolvency law. He is a member of the board of Finansiell Stabilitet, which handles insolvent banks.

Tomáš Richter, Doc. JUDr., LL.M., Ph.D., is Of Counsel in the Prague office of Clifford Chance LLP and Associate Professor at the Institute of Economic Studies, Faculty of Social Sciences, Charles University, Prague. Between 2011 and 2014, he held a *Chair in Cross-Border Corporate Insolvency Law* at the Radboud University Nijmegen Law School. He currently serves as the Chair of *INSOL Europe's Academic Forum* and member of the Board of Directors of the *International Insolvency Institute*. He is also member of the *Conference of European Restructuring and Insolvency Law*. He was one of the main co-authors of the Czech Insolvency Act 182/2006 and served on the group of private experts with whom the EU

List of Authors

Commission consulted its proposals of the Recast European Insolvency Regulation 2015/848 and the EU Restructuring Directive 2019/1023. He is currently advising the Czech Ministry of Justice on the implementation of the EU Restructuring Directive into Czech law.

Michael Veder is professor of private law at the Radboud Business Law Institute, vice-dean of research of the Faculty of Law of Radboud University (Nijmegen, the Netherlands) and adviser at the Amsterdam based law firm RESOR. Michael is admitted to the bar in the Netherlands. He is a member of the European Commission Group of Experts on Restructuring and Insolvency Law and was a member of the European Commission Expert Group on cross-border insolvency. He chairs the Dutch Insolvency Law Commission (*Commissie Insolventierecht*) that advises the Dutch government and parliament on matters relating to insolvency and restructuring. Michael regularly publishes, lectures and advises on (international and comparative aspects of) property law, secured transactions, insolvency and restructuring (and related disputes).



beck-shop.de
DIE FACHBUCHHANDLUNG