

Convergence of insolvency frameworks within the European Union - the way forward?

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In the wake of the Juncker Plan, the Action Plan on Building a Capital Markets Union and the Single Market Strategy the European Commission has made the strengthening of Europe's Economy and the stimulation of investments in Europe some of its top priorities. In doing so the Commission has identified insolvency and restructuring proceedings as an important factor for creating a strong capital market. Thus insolvency law has increasingly attracted the Commission's attention. The recast of the European Insolvency Regulation on (cross-border) insolvency proceedings which will be applicable from June 26, 2017 (or the day after? See

<https://conflictoflaws.de/2016/oops-they-did-it-again-remarks-on-the-intertemporal-application-of-the-recast-insolvency-regulation/>) is only an intermediate step towards a European Insolvency Law.

Already back in 2014 the Commission formulated the non-binding recommendation on a new approach to business failure and insolvency encouraging the member states to create "a framework that enables the efficient restructuring of viable enterprises in financial difficulty" and to "give honest entrepreneurs a second chance". Now, the Commission is far more ambitious as it is preparing an "insolvency initiative" on certain aspects of substantive insolvency laws to be adopted in autumn this year, as Vera Jourová, EU Commissioner for Justice, Consumers and Gender Equality, announced at last week's conference on the "Convergence of insolvency frameworks within the European Union - the way forward" in Brussels. This conference was intended to contribute to the preparatory work of the Commission on the insolvency initiative.

Accompanying the conference the Commission has also published an insightful comparative study on substantive insolvency law throughout the EU prepared by a team from the School of Law at the University of Leeds. It is highly interesting

how far-reaching the Commission's legislative proposal will be. Is the Commission even planning to harmonize the member state's rules on the ranking of claims? Will there be minimum standards for insolvency practitioners and courts throughout the EU? Will there be special rules for insolvencies of corporate groups? As indicated by the Commission's "Inception Impact Assessment" on the insolvency initiative published earlier this year we can at least expect an EU Directive on a preventive restructuring procedure. Either way international insolvency law will be a highly interesting and dynamic area of international law for the next years.

The Stream of the conference is still available at:
<https://webcast.ec.europa.eu/insolvency-conference>

The Impact Assessment is available at:
http://ec.europa.eu/justice/civil/files/insolvency/impact_assessment_en.pdf

The comparative study is available at:
http://ec.europa.eu/justice/civil/files/insolvency/insolvency_study_2016_final_en.pdf