

JCOERE- Judicial Co-Operation in the European Union: Insolvency and Rescue

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JCOERE
Judicial Co-Operation
European Economic Recovery



This project is
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(2014-2020).



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The Project Aims

- To explore obstacles to judicial co-operation in the particular context of preventive restructuring.
- These obstacles will be classified by type of substantive rules and procedural rules.
- Existing guidelines will be documented.
- Judicial awareness of obstacles, guidelines and best practise will be documented.
- Dissemination of our results to provide additional support to courts is a key part of the project.

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The provisions of the Recast Regulation on Court to Court and IP to Court Co-Operation

- Articles 42- 44- relate to insolvency proceedings, main, secondary or territorial concerning a single debtor
- Articles 57-59- relate to insolvency proceedings relating to two or members of a group of companies.

Add Preventive Restructuring

- Ireland: Examinership (1990 Companies (Amendment) Act, Companies Act 2014 Part 10)
- France : Sauvegarde (Loi no 2005-845 du 26 juillet 2005 de sauvegarde des entreprises)
- Netherlands (CCA 1, 2017, stalled pending ECJ decision)
- Spain: (Royal Decree Law 4/2014, 7 March and Law 17/14, 30 September)
- Austria: (The Company Reorganisation Act 1997)
- EU : At present still styled the Proposed Directive 2016/0359
- UK: Schemes of Arrangement (2006 Companies Act Part 26)

Obstacles to Judicial Co-Operation in relation to preventive restructuring.

Substantive

- Stay
- Cram down
- Super priority
- Rights in rem
- Workers

Procedural

- Rules of court- public
- Type of approving authority for schemes
- Insolvency Practitioners.
- Creditor rights and enforcement e.g. some rights in rem.

The Story so far.....

Project Map

Project Website

Project meetings

Our First Report- Structure and
Production.....



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Work in Progress

- Exposition of the Directive
- Literature Collection and Review
- Distribution of the Questionnaire
- External Engagement



Next Steps

- Literature synthesis including a consideration of cases involving judicial co-operation....
- Drafting the first Report
- Guidelines on court co-operation
- Dissemination

JCOERE invitation

- Any ideas or suggestions? Join our network!
- Thank you.



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