

## Annex 4

### JCOERE Bibliography

#### 1. Legislation

##### European Union (Regulations, Directives & Proposals, Communications, and Recommendations)

Directive (EU) 2019/1023 of 26 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency) [2019] OJ L 172/18

Council Directive 1998/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies [1998] OJ L 225/16

Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses [2001] OJ L 82/16

Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer (Codified version) [2008] OJ L 283/36

Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation [2002] OJ L 80/29

Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast) OJ L 122/28

Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings [2000] OJ L 160/1

Regulation (EU) 848/2015 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (Recast) [2015] OJ L 141/19

Commission Proposal COM (2016) 723 final for a directive on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/30/EU [2016]



Commission Recommendation COM (2014) 1500 of 12 March 2014 on a new approach to business failure and insolvency [2014] OJ L 74/65

Commission Executive Summary COM (2014) 61 of 12 March 2014 of the Impact Assessment of accompanying the document Commission Recommendation on a new approach to business failure and insolvency [2014]

Commission Evaluation COM (2015) of 30 September 2015 of the implementation of the Commission Recommendation of 12 March 2014 on a new approach to business failure and insolvency

European Economic and Social Committee Opinion EESC (2017) of 16 January 2017 on a proposal for a directive of the European Parliament and of the Council on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/30/EU [2017]

European Central Bank Opinion ECB (2017) of 7 June 2017 on a proposal for a directive of the European Parliament and of the Council on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/30/EU' (Communication) OJ C 236/02

### Austria

*Bundesgesetz über das Insolvenzverfahren (Insolvenzordnung)* (“Federal Act on Insolvency (Insolvency Code)”)

*Das Bundesgesetzblatt für die Republik Österreich* (“BGBl”) 1997/114

### Denmark

*Konkursloven LBK nr 11 af 06/01/2014* (“The Danish Bankruptcy Act, Consolidated Act No. 11 of 6 January 2014”)

*Bekendtgørelse af lov om lønmodtageres retsstilling ved virksomhedsoverdragelse (Virksomhedsoverdragelsesloven)* (“Notice of Law on Employees' Legal Status in Transfer of Business (Undertakings Act)”).

### England & Wales

Companies Act 2006

Civil Procedure Rules 1998

Employment Rights Act 1996

Insolvency Act 1986

Trade Union and Labour Relations (Consolidation) Act 1992

### France

*Le Code civil* (“Civil Code”)

*Le Code de commerce* (“Commercial Code”)

*La Loi n° 84-148 du 1 mars 1984 relative à la prévention et au règlement amiable des difficultés des entreprises* (“Law No. 84-148 of March 1<sup>st</sup>, 1984 on the prevention and amicable settlement of business difficulties”).

*La Loi n° 85-98 du 25 janvier 1985 relative au redressement et à la liquidation judiciaires des entreprises* (“Law No. 85-98 of January 25<sup>th</sup>, 1985 on the reorganization and liquidation of companies”)

*La Loi n° 85-99 du 25 janvier 1985 relative aux administrateurs judiciaires, aux mandataires judiciaires à la liquidation des entreprises et experts en diagnostic d'entreprise* (“Law No. 85-99 of January 25<sup>th</sup>, 1985 relating to the judicial administrators, court appointed receivers, the liquidation of companies and experts in business diagnosis”)

*La Loi n° 2005-845 du 26 juillet 2005 de sauvegarde des entreprises* (“Law No. 2005-845 of July 26<sup>th</sup>, 2005 for the Safeguard of Companies”)

*Décret n°2005-1677 du 28 décembre 2005 pris en application de la loi n° 2005-845 du 26 juillet 2005 de sauvegarde des entreprises* (“Decree n°2005-1677 of December 28<sup>th</sup>, 2005 taken in application of the law n° 2005-845 of July 26<sup>th</sup>, 2005 of the safeguarding of the companies”)

*Ordonnance n° 2008-1345 du 18 décembre 2008 portant réforme du droit des entreprises en difficulté* (Ordinance n° 2008-1345 of December 18<sup>th</sup>, 2008, reforming the law of the companies in difficulty)

*La Loi n° 2010-1249 du 22 octobre 2010 de régulation bancaire et financière* (“Law no. 2010-1249 of October 22<sup>nd</sup>, 2010 of banking and financial regulation”)

*Ordonnance n° 2014-326 du 12 mars 2014 portant réforme de la prévention des difficultés des entreprises et des procédures collectives* (“Ordinance n° 2014-326 of March 12<sup>th</sup>, 2014 reforming the prevention of the difficulties of the companies and collective procedures”)

*La Loi n° 2016-1547 du 18 novembre 2016 de modernisation de la justice du XXI<sup>e</sup> siècle* (“The Law n° 2016-1547 of November 18<sup>th</sup>, 2016 of the modernization of justice of the 21<sup>st</sup> century”)

*La Loi du 22 mai 2019 relative à la croissance et la transformation des entreprises* (“Loi Pacte” 2019)

## Germany

*Die Insolvenzordnung* (“The Insolvency Statute”)

## Ireland

Companies Act 1990

Companies (Amendment) Act 1990

Companies (Amendment) Act 1999

Companies (Amendment) Act 2013

Companies Act 2014

## Italy

*Codice della crisi d'impresa e dell'insolvenze* (“Decree No 14 of 12<sup>th</sup> January 2019 - CCI”).



## The Netherlands

*Burgerlijk Wetboek* (“Dutch Civil Code”)

*Faillissementswet* 1896 (“Dutch Bankruptcy Act”).

*Wet homologatie onderhands akkoord* (Act on the Confirmation of Extrajudicial Restructuring Plans).

*Wet Continuïteit Ondernemingen II* 2014 (Business Continuation Act II 2014 - Draft Bill).

*Procesreglement verzoekschriftprocedures insolventiezaken rechtbanken* 2019 (“Procedural rules on petition proceedings for insolvency cases in the courts”)

## Poland

Ustawa z dnia 15.05.2015 r. - Prawo restrukturyzacyjne; Ustawa z dnia 28.02.2003 r. - Prawo upadłościowe (do 31.12.2015 r. pod nazwą -Prawo upadłościowe i naprawcze) (“The Act of 15 May 2015 on Restructuring Law”)

## Romania

LEGE nr. 85 din 25 iunie 2014 privind procedurile de prevenire a insolvenței și de insolvență (“Law 85/2014”).

## Spain

Ley 22/2003 de 9 de julio (“Law 22/2003 of 9 July”).

Ley 14/2013 de 27 de septiembre que introdujo la regulación del acuerdo extrajudicial de pagos (“Law 14/2013 of 27 September introducing the regulation of out-of-court settlement payments”)

Ley 17/2014 de 30 de septiembre de refinanciación y reestructuración de deudas empresariales (‘Law 17/2014 of 30 September on the refinancing and restructuring of corporate debts’)

Ley 9/2015 de 25 de mayo de medidas urgentes en material concursal (‘Law 9/2015 of 25 May on urgent measures in insolvency proceedings’)

## United States of America

Title 11, Chapter 11, United States Code.

2. Cases

## England & Wales

*Anglo-Continental Supply Co Ltd, Re* [1922] 2 Ch 723

*Belohn & Merrow Ltd, Re* [2013] IEHC 157

*Bluebrook Ltd, Re* [2009] EWHC 2114 (Ch).

*BTR Plc, Re* [2000] 1 BCLC 740

*Greenhaven Motors, Re* [1999] 1 BCLC 635

*Hawk Insurance Co Ltd, Re* [2002] BCC 300

*HMRC v Portsmouth City FC* [2011] BCC 149

*Industrial Equity (Pacific) Ltd, Re* [1991] 2 HKLR 614

*IRC v Wimbeldon Football Club Limited* [2005] 1 BCLC 365

*My Travel Group Plc, Re* [2005] 2 BCLC 123

*Primacom Holding GmbH & Anor v A Group of the Senior Lenders & Credit Agricole* [2011] EWHC 3746

*Primacom Holding GmbH, Re* [2013] BCC 201

*Prudential Assurance Co Ltd v PRG Powerhouse Ltd* [2007] BCC 500

*Savoy Hotel Ltd, Re* [1981] Ch 351

*SISU Capital Fund Ltd v Tucker* [2006] BCC 463

*T & N Ltd, Re* [2005] 2 BCLC 488

*UDL Holdings Ltd, Re* [2002] 1 HKC 172

### France

CA Aix, 5 June 1987, D.1988.somm.41

### European Union

Case 135/83 *HBM Abels v The Administrative Board of the Bedrijfsvereniging voor de Metaalindustrie en de Electrotechnische Industrie* [1985] ECR 469

Case C-362/89 *D'Urso and ors v Ercole Marelli Eletromeccanica Generale SpA and ors* [1991] ECR I4105

Case C-29/91 *Dr Sophie Redmond Stichting v Bartol* [1992] ECR 3189

Case C-472/93 *Spano and Others v Fiat Geotech and Fiat Hitachi* [1995] ECR I-4321

Case X319/94 *Jules Dethier Equipement SA v Jules Dassy* [1998] ECR I-1061

Case C-171/94 and C-172/94 *Albert Merckx and Patrick Neuhuys v Ford Motors Company Belgium SA* [1996] ECR I-1253.

Case C-399/96 *Europieces SA, in liquidation v Wilfried Sanders and Automotive Industries Holding Company SA* [1998] ECR I-6965

Case C-126/16 *Federatie Nederlandse Vakvereniging and Others v Smallsteps BV* [2017] ECLI:EU:C:2017:489

## Italy

Court of Milan, Insolvency Section, 3 November 2016.

Court of Appeal of Venice, 27 June 2019.

## Ireland

*Atlantic Magnetics, Re* [1993] 2 I.R. 561

*Ballantyne RE Plc & Companies Act 2014, Re* [2019] IEHC 407

*Clare Textiles Ltd, Re* [1993] 2 IR 213

*Colonia Insurance (Ireland) Ltd., Re* [2005] 1 IR 497

*Don Bluth Entertainment, Re* [1994] 2 I.L.R.M. 436

*Goodman International, Re* [1991] ICLR 623

*Holidair, Re* [1994] 1 IR 416

*John Power and Sons Ltd., Re* [1934] 412

*McInerney Homes Ltd and Ors, Re* [2011] IESC 31

*Millstream Recycling, Re* [2010] IEHC 538

*Mount Wolseley Hotel Golf & Country Club & Ors & Companies Acts, Re* [2014] IEHC 24

*Pye (Ireland), Re* [1985] IEHC 62

*SIAC Construction Limited, Re* [2014] IESC 25

*Traffic Group Ltd., Re* [2008] 3 IR 253 [260]

*Tivway Ltd, Re* [2009] IEHC 494; [2010] 3 IR 49

## The Netherlands

ECLI:NL:RBAMS:1938:69

## Poland

Decision of the District Court Częstochowa of 7 May 2018, number of the court case: V Gz 60/18.

## 3. Reports

A Revised Framework for Insolvency Law (1984) Cmnd 9175

Betænkning 1512/2009 Forslag til lov om ændring af konkursloven og forskellige andre love (rekonstruktion m.v.) Betænkning afgivet af Retsudvalget den 27. maj 2010 (“Report 1512/2009 on Proposal for amending the Bankruptcy Act and various other laws (reconstruction, etc.) Committee on Legal Affairs of Denmark, 27 May 2010”)

*Betænkning om konkurs og tvangsakkord (Betænkning nr. 606/1971)* (“Report on bankruptcy and coercive treatment (Report no. 606/1971)”)

Bob Wessels and Stephan Madaus, *Instrument of the European Law Institute – Rescue of Business in Insolvency Law* (September 6, 2017)

“Codul Insolventei Adnotat”, The World Bank Group and Romanian Ministry of Justice, in the Program “Întărirea mecanismului insolvenței în România”, financed by BIRD, 2011-2016, [www.just.ro/wp-content/uploads/2016/03/Cod-adnotat-FINAL.docx](http://www.just.ro/wp-content/uploads/2016/03/Cod-adnotat-FINAL.docx).

Department for Business, Energy & Industrial Strategy *Insolvency and Corporate Governance: Government Response* (2018)

Explanatory Report of the Delegated Law n. 155/2017 and the Italian Supreme Court’s decision, section I, 07 April 2017, n. 9061

Explanatory Report of the Delegated Law n. 155/2017 and the Italian Supreme Court’s decision, section I, 13 June 2016, n. 12119.

Insolvency and Corporate Governance: Government Response (August 2018)

Insolvency Service (BEIS), *A Review of the Corporate Insolvency Framework* (May 2016)

*Kamerstukken II* 2001/02, 24 036, nr. 238, 1. (“Second Chamber of the States General, ‘Letter from the Minister of Justice To the President of the Lower House of the States General’, 3 May 2007”)

Nader rapport Wet homologatie onderhands akkoord (“Further report Homologation Private Agreement Agreement”) <<https://www.rijksoverheid.nl/documenten/kamerstukken/2019/07/08/tk-nader-rapport-wet-homologatie-onderhands-akkoord>> accessed ?

*Practice Statement (Companies: Schemes of Arrangement)* [2002] 1 All ER 96

R3, the Statement of Insolvency Practice 16 (SIP 16).

Report of the Review Committee on Insolvency Law and Practice (1982) Cmnd 8558

Vasile Rotaru, ‘The Restructuring Directive: a Functional Law and Economics Analysis from a French Law Perspective’ (2019) Working Paper published by Droit et Croissance

Summary of Responses: A Review of the Corporate Insolvency Framework (September 2016)

World Bank, *Principles for Effective Insolvency and Creditor/Debtor Regimes*, Revised 2015

Weijts R.J., Jonkers A.L. and Malakotipour M, ‘The Imminent Distortion of European Insolvency Law: How the European Union Erodes the Basic Fabric of Private Law by Allowing ‘Relative Priority’ (RPR)’ (2019) Centre for the Study of European Contract Law Working Paper Series No. 2019-05

4. Books



- Austin J, *Lectures on Jurisprudence or the Philosophy of Positive Law* (John Campbell (ed), 4<sup>th</sup> edn, The Lawbook Exchange Ltd 2005)
- Baird D and Jackson T, *Problems and Materials on Bankruptcy* (Little & Brown 1985)
- Bork R and Mangano R, *European Cross-Border Insolvency Law* (OUP 2016)
- Courtney T, et al (eds), *Bloomsbury Professional's Guide to the Companies Act 2014* (Bloomsbury 2015)
- Courtney T, *The Law of Private Companies* (4<sup>th</sup> Edition, 2016)
- Finch V and Milman D, *Corporate Insolvency Law: Perspectives and Principles* (3rd edn, CUP 2017)
- Fishman J, Pratt S and Morrison W, *Standards of Value: Theory and Application* (John Wiley & Sons Inc 2007)
- Gant J, *Balancing the Protection of Business and Employment in Insolvency: An Anglo-French Perspective* (Eleven International Publishing 2017)
- Goode R, *Commercial Law* (Penguin 1995)
- Gross K, *Failure and Forgiveness: Rebalancing the Bankruptcy System* (Yale University Press 1999)
- Jackson T, *The Logic and Limits of Bankruptcy* (Harvard University Press 1986)
- Keay A and Walton P, *Insolvency Law Corporate and Personal* (4th edn, LexisNexis 2017)
- Keane, *The Law of Companies* (5<sup>th</sup> Edn, Tottel, 2017)
- Lynch I, Marshall J and O'Ferrall R, *Corporate Insolvency and Rescue* (Butterworths 1996)
- Lynch Fannon I and Murphy G, *Corporate Insolvency and Rescue* (2<sup>nd</sup> edn. Bloomsbury 2012)
- MacCann L and Courtney T, *The Companies Acts 1963 – 2006* (Bloomsbury 2008)
- McCormack G, Keay A and Brown S, *European Insolvency Law: Reform and Harmonization* (Elgar 2017)
- Mokal R *Corporate Insolvency Law: Theory and Application* (OUP 2005)
- Omar P, *European Insolvency Law* (Ashgate 2004)
- O'Donnell J and Nicholas J, *Examinerships* ( Lonsdale 2016)
- Payne J, *Schemes of Arrangement: Theory, Structure and Operation* (Cambridge University Press 2014)
- Rapoport and Chammah A, *Prisoner's Dilemma* (University of Michigan Press 1965)
- Saint-Alary-Houin C, *Droit des Entreprises en Difficulté* (Montchrestien 2001)





Schumacher E, *Small is Beautiful – A Study of Economics as if People Mattered* (first published 1973, Vintage 2011)

Siems M, *Comparative Law* (CUP 2014)

Stanghellini L, Mokal R, Paulus C, and Tirado I, *Best Practices in European Restructuring: Contractualised Distress Resolution in the Shadow of the Law* (Wolters Kluwer 2018)

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

van Zwieten K, *Goode on Principles of Corporate Insolvency Law* (5th edn, Sweet & Maxwell 2018)

van Hoecke M (ed), *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* (Hart 2011)

Zweigert K and Kötz H, *An Introduction to Comparative Law* (T Weir tr, 3rd edn, OUP 1998)

## 5. Articles

Aalbers R, Adriaanse J, Boon G, van der Rest J, Vriesendorp R, and van Wersch F, ‘Does Pre-Packaged Bankruptcy create Value? An Empirical Study of Post-Bankruptcy Employment Retention’ (2019) 28 *International Insolvency Review* (forthcoming)

Adams ES and Fincke JK, ‘Coordinating Cross-border Bankruptcy: How Territorialism Saves Universalism’ (2008) 15 *Colum J Eur L* 43

Adler B, ‘A Theory of Corporate Insolvency’ (1997) 72 *New York University Law Review* 343

– ‘The Creditors’ Bargain Revisited’ (2018) 166 *University of Pennsylvania Law Review* 1853

Baird D, ‘The Uneasy Case for Corporate Reorganisations’ (1986) 15(1) *Journal of Legal Studies* 127

– ‘A World without Bankruptcy’ (1987) 50(2) *Law and Contemporary Problems* 173

– ‘Loss Distribution, Forum Shopping, and Bankruptcy: A Reply to Warren’ (1987) 54 *University of Chicago Law Review* 815

– ‘Priority Matters: Absolute Priority, Relative Priority, and the Costs of Bankruptcy’ (2017) 165(4) *University of Pennsylvania Law Review* 785

– and Bernstein D, ‘Absolute Priority, Valuation Uncertainty, and the Reorganization Bargain’ (2006) 115 *Yale Law Journal* 1930

– and Jackson T, ‘Corporate Reorganisations and the Treatment of Diverse Ownership Interest: A Comment on Adequate Protection of Secured Creditors in Bankruptcy’ (1984) 51 *University of Chicago Law Review* 97

– and Jackson T, ‘Bargaining after the Fall and the Contours of the Absolute Priority Rule’ (1988) 55 *University of Chicago Law Review* 738

Bebchuck L, ‘Ex Ante Costs of Violating Absolute Priority in Bankruptcy’ (2002) 57(1) *Journal of Finance* 445

- Bell J, 'Path Dependence and Legal Development' (2013) 87 *Tulsa Law Review* 787
- Boodman M, 'The Myth of Harmonisation of Laws' (1991) 39(4) *American Journal of Company Law* 699
- Boon G, 'Harmonising European Insolvency Law: The Emerging Role of Stakeholders' (2018) 27(2) *International Insolvency Review* 150
- Bork R, 'Preventive Restructuring Frameworks: A Comedy of Errors or All's Well that Ends Well?' (2017) 14(6) *International Corporate Rescue* 417
- Buchanan J.M. and Yoon Y.J., 'Symmetric Tragedies: Commons and Anticommons' (2000) 43 *Journal of Law & Economics* 1
- Carlson D, 'Bankruptcy Theory and the Creditors' Bargain' (1992) 61 *University of Chicago Law Review* 453
- Casey A.J., 'The Creditors' Bargain and the Option-Preservation Priority in Chapter 11' (2011) 78(3) *U Chi L Rev* 759
- Dammann R and Boché-Robinet M, "Transposition du projet de directive sur l'harmonisation des procédures de restructuration préventive en Europe. Une chance à saisir pour la France" (2017) *Recueil Dalloz* n.22, 22 June 2017.  
<[http://www.dirigerentempsdecrise.com/assets/fichiers/RECUEIL22-05\\_CHRONIQUE\\_Mise%20en%20page%201.pdf](http://www.dirigerentempsdecrise.com/assets/fichiers/RECUEIL22-05_CHRONIQUE_Mise%20en%20page%201.pdf) >
- De Weijs R, 'Harmonisation of European Insolvency Law and the Need to Tackle Two Common Problems: Common Pool and Anticommons' (2012) 21(2) *International Insolvency Review* 67
- 'Too Big to Fail as a Game of Chicken with the State: What Insolvency Law Theory has to say about TBTF and Vice Versa' (2013) 14 *European Business Organization Review* 201
- Jonkers A and Malakotipour M, 'The Imminent Distortion of European Insolvency Law: How the European Union Erodes the Basic Fabric of Private Law by Allowing "Relative Priority" (RPR)' (2019) *Amsterdam Law School Legal Studies Research Paper No 2019-10*, Centre for the Study of European Contract Law Working Paper No 2019-05
- Droege Gagnier A and Dorst A, 'France: quo vadis ? France is keen to reform its security and insolvency law' (2018) 12 *Insolvency and Restructuring International* 24
- Eberhart A, et al, 'Security Pricing and Deviations from the Absolute Priority rule in Bankruptcy Proceedings' (1990) 45 *J Fin* 1457
- Ehmke D, Gant J, Boon G, Langkjaer L, Ghio E, 'Restructuring Europe – The EU Preventive Restructuring Framework: a hole in one? A comparative study on the occasion of the 10th anniversary of the INSOL Europe Younger Academics Network of Insolvency Law' (2019) 28(2) *IIR* 184
- Eidenmuller H 'Contracting for a European Insolvency Regime' (2017) 18 *European Business Organization Law Review* 273

- ‘What is an Insolvency Proceeding?’ (2018) 92 American Bankruptcy Law Journal 53
- Eidenmuller H and van Zweiten K, ‘Restructuring the European Business Enterprise: the European Commission’s Recommendation on a New Approach to Business Failure and Insolvency’ (2015) 16 European Business Law Review 625
- Fellner M, ‘Restructuring and Insolvency: Austria’ (Thompson Reuters 2011)  
<<https://uk.practicallaw.thomsonreuters.com/4-385-2603?>> accessed on 26 October 2019
- Finch, ‘The Recasting of Insolvency Law’ (2005) 68 MLR 713
- Franks J.R. and Torous W.N., ‘An Empirical Investigation of US firms in Reorganization’ (1989) 44 J Fin 747
- Gerards J, ‘Pluralism, Deference and the Margin of Appreciation Doctrine’ (2011) 17(1) European Law Journal 80
- Ghio E, ‘Cross-border Insolvency and Rescue Law Theory: Moving Away from the Traditional Debate on Universalism and Territorialism’ (2019) 29(12) International Company and Commercial Law Review 713
- Goldring J, ‘Unification and Harmonisation of the Rules of Law’ (1978) 9 Federal Law Review 284
- Goode R, ‘Ownership and Obligation in Commercial Transactions’ (1987) 103 LQR 433
- Gorchs B, “Le contrôle judiciaire des accords de règlement amiable” (2008) *Revue de l'arbitrage No 1*
- Guzman, AT, ‘International Bankruptcy: In Defense of Universalism’ (2000) 98 Mich L Rev 2178
- Harrison J, ‘Egoism, Altruism, and Market Illusions: The Limits of Law and Economics’ (1985) 33 University of California, Los Angeles Law Review 1309
- Hathaway O, ‘Path Dependence in the Law: The Course and Pattern of Legal Change in a Common Law System’ (2000) 86 Iowa L Rev 601
- Hoffman T and Giancristofano I, ‘Germany: Corporate Recovery and Insolvency 2019’ (ICLG.com 2019)  
<<https://iclg.com/practice-areas/corporate-recovery-and-insolvency-laws-and-regulations/germany>>
- Jackson T, ‘Non-Bankruptcy Entitlements and the Creditors’ Bargain’ (1982) 91(5) Yale Law Journal 857
- ‘Of Liquidation, Continuation, and Delay: An Analysis of Bankruptcy Policy and Non-Bankruptcy Rules’ (1986) 60 American Business Law Journal 399
- and Scott R, ‘On the Nature of Bankruptcy: an Essay of Bankruptcy Sharing and the Creditor’s Bargain’ (1989) 75(2) Virginia Law Review 155
- ‘A Retrospective Look at Bankruptcy’s New Frontiers’ (2018) 166 University of Pennsylvania Law Review 1867
- Janger EJ, ‘Universal Proceduralism’ (2007) 32 Brook J Int’l L 819

- 'Virtual Territoriality' (2010) 48 Colum J Transnat'l L 401
- 'Reciprocal Comity' (2011) 46 Tex Int'l L J 441
- Jergitsch F and Redmann C, 'Restructuring & Insolvency Austria' (Getting the Deal Through 2018) <<https://gettingthedealthrough.com/area/35/jurisdiction/25/restructuring-insolvency-2018-austria/>>
- Kipnis AM, 'Beyond UNCITRAL: Alternatives to Universality in Transnational Insolvency' (2008) 36(2) Denv J Int'l L & Pol'y 155
- Kocourek A, 'Rights in Rem' (1920) 68 University of Pennsylvania Law Review 322
- Korobkin D, 'Rehabilitating Values: A Jurisprudence of Bankruptcy' (1991) 91(4) Columbia Law Review 717
- 'Contractarianism and the Normative Foundations of Bankruptcy Law' (1993) 71 Texas Law Review 541
- Levinthal L, 'The Early History of Bankruptcy Law' (1918) 66 University of Pennsylvania Law Review 223
- LoPucki L, 'A Team Production Theory of Bankruptcy Reorganisation' (2004) 57(3) Vanderbilt Law Review 741
- 'The Case for Cooperative Territoriality in International Bankruptcy' (1999-2000) 98 Mich L Rev 2216;
- 'Universalism Unravels' (2005) 79 Am Bankr L J 143
- Lynch I, 'Goodman International and the 1990 Companies (Amendment) Act.' (1991) (Spring) DLI 2
- 'Saving Jobs at What Cost? Consideration of the Companies (Amendment) Act 1990' (1994) Irish Law Times 208
- 'Reform in Haste: Repent at Leisure. A Consideration of the Company Law Reform Group, 1993' (1994) Irish Law Times 189
- Lynch Fannon, I
- 'Examinership: Approval of Schemes — Re SIAC Construction Ltd and in the Matter of the Companies (Amendment) Act 1990 (as Amended)' (2015) 1 Commercial Law Practitioner
- Madaus S, 'Reconsidering the Shareholder's Role in Corporate Reorganisations under Insolvency Law' (2013) 22 International Insolvency Review 106
- 'Leaving the Shadows of US Bankruptcy Law: A Proposal to Divide the Realms of Insolvency and Restructuring Law' (2018) 19 European Business Organization Law Review 615
- Martin N, 'Noneconomic Interests in Bankruptcy: Standing on the Outside Looking In' (1998) 59 Ohio State Law Journal 429

- McCarthy J, ‘Something Old, Something New? The Potential Impact of the EU Preventive Restructuring Directive through an Irish Case Study’ (2019) 16(6) *International Corporate Rescue* 1
- McCormack G, ‘Jurisdictional Competition and Forum Shopping in Insolvency Proceedings’ (2009) 68(1) *Cambridge Law Journal* 169
- – ‘Universalism in Insolvency Proceedings and the Common Law’ (2012) 32(2) *Oxford Journal of Legal Studies* 325
- – ‘Reforming the European Insolvency Regulation: A Legal and Policy Perspective’ (2014) 10(1) *Journal of Private International Law* 41
- Omar P, ‘Genesis of the European Initiative in Insolvency Law’ (2003) 12(3) *International Insolvency Review* 147
- – ‘Preservation and Pre-Packs à la Française: The Evolution of French Insolvency Law after 2005’ (2011) *ICCLR* 258
- Paterson S, ‘Reflections on English Law Schemes of Arrangement in Distress and Proposals for Reform’ (2018) 15(3) *European Company and Financial Law Review* 472
- – ‘Rethinking the Role of the Law of Corporate Distress in the Twenty-First Century’ (2014) *London School of Economics Law, Society, and Economy Working Papers* 27/2014
- Paulus C, Potamitis S, Rokas A and Tirado I, ‘Insolvency Law as a Main Pillar of the Market Economy – A Critical Assessment of the Greek Insolvency Law’ (2015) 24 *International Insolvency Review* 1
- Payne J, ‘Restructuring Reform in Europe: the European Commission’s draft Directive’ (2017) *March Butterworth Journal of International Banking and Financial Law* 149
- Rasmussen RK, ‘Where are all the Transnational Bankruptcies? The Puzzling Case for Universalism’ (2007) 32(3) *Brook J Int’l L* 983
- Roe M, ‘Bankruptcy and Debt: A New Approach to Corporate Reorganisation’ (1983) *Columbia Law Review* 527
- – ‘Three Ages of Bankruptcy’ (2017) 7 *Harvard Business Law Review* 187
- Scott R, ‘Through Bankruptcy with the Creditors’ Bargain Heuristic’ (1986) 53 *University of Chicago Law Review* 690
- Streit G and Burk Fabian, ‘Restructuring and Insolvency in Germany: Overview’ (Thompson Reuters 2018) [https://uk.practicallaw.thomsonreuters.com/2-501-6976?transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://uk.practicallaw.thomsonreuters.com/2-501-6976?transitionType=Default&contextData=(sc.Default)&firstPage=true) accessed on 16/09/2019
- Tirado I and Mokal R, ‘Has Newton had his Day? Relativity and Realism in European Restructuring’ (2019) *Winter Eurofenix* 20

Tollenaar N, 'The European Commission's Proposal for a Directive on Preventive Restructuring Proceedings' (2017) 30(5) *Insolvency Intelligence* 65

Vriesendorp R and Verstijlen F, 'Enige opmerkingen over Polak-Wessels, Insolventierecht' (2004) WPNR 6603

Warren E, 'Bankruptcy Policy' (1987) 54(3) *University of Chicago Law Review* 755

-- 'Bankruptcy Policymaking in an Imperfect World' (1993) 92 *Michigan Law Review* 336

Westbrook J, 'A Global Solution to Multinational Default' (2000) 98 *Michigan Law Review* 2276

-- 'A Global Solution to Multinational Default' (2000) 98 *Mich L Rev* 2276;

-- 'Universalism and Choice of Law' (2005) 23 *Penn St Int'l L Rev* 625;

-- 'Locating the Eye of the Financial Storm' (2006-2007) 32 *Brook J Int'l L* 1019;

-- 'A Comment on Universal Proceduralism' (2010) 48 *Colum J Transnat'l L* 503;

Zweigert K and Kötz H, 'Critical Evaluation in Comparative Law' (1974) 5 *Adel L rev* 343

## 6. Book Chapters

Adriannse J, 'The Uneasy Case for Bankruptcy Legislation and Business Rescue' in Veder M and Omar P (eds), *Teaching and Research in International Insolvency Law: Challenges and Opportunities* (INSOL 2015)

Gardiner G, 'National Report on the Transfer of Movables in Ireland' in Faber W and Lurger B (eds), *National Reports on the Transfer of Movables in Europe: Volume 2* (Sellier Publishers 2009) 165-166.

Omar P, 'The Progress of Reforms to Insolvency Law and Practice in France' in Gromek Broc K and Parry R (eds.), *Corporate Rescue in Europe: An Overview of Recent Developments from Selected Countries in Europe* (Kluwer 2004)

Michaels R, 'The Functional Method' in Reimann M and Zimmerman R (eds), *The Oxford Handbook of Comparative Law* (OUP 2006)

## 7. Websites

Allen and Overy, 'Restructuring Across Borders – Spain: Corporate Restructuring and Insolvency Procedures' (2018) <<http://www.allenoverly.com/expertise/practices/restructuring/Pages/Spain-corporate-restructuring.aspx>> accessed 26 October 2019

Dammann R and Rotaru V, 'Premières Réflexions sur la Transposition de la Future Directive sur les Restructurations Préventives' *Daloz Actualité : Le Quotidien de Droit* (2018) available from <<https://www.daloz-actualite.fr/revue-de-presse/premieres-reflexions-sur-transposition-de-future-directive-sur-restructurations-prev#.XdesK-j7QuU>>

De Brauw, Blackstone and Westbroek, ‘Unofficial Translation of Draft Act on Dutch Court Confirmation of Extrajudicial Restructuring Plans to Avert Bankruptcy (Wet Homologatie Onderhands Akkoord Ter Voorkoming Van Faillissement)’ (2019), <<https://www.debrauw.com/wp-content/uploads/2013/11/20180108-WHOA-unofficial-translation.pdf>>

Danjon S “La procédure de sauvegarde accélérée” (2016) < <https://dumas.ccsd.cnrs.fr/dumas-01317161/document> >

Minister Dekker, ‘Nader rapport Wet homologatie onderhands akkoord’ (2019) <<https://www.rijksoverheid.nl/documenten/kamerstukken/2019/07/08/tk-nader-rapport-wet-homologatie-onderhands-akkoord>> (Unofficial translation available at: <<https://www.debrauw.com/cerp/>>)

Overheid, Explanatory memorandum on WHOA <<https://www.internetconsultatie.nl/wethomologatie>>

Procesreglement verzoekschriftprocedures insolventiezaken rechtbanken (2019), available at: <<https://www.rechtspraak.nl/SiteCollectionDocuments/Procesreglement-verzoekschriftprocedures-insolventiezaken-rechtbanken-012019.pdf> >

Pukszuto A.M and Morawska K, ‘Restructuring and Insolvency in Poland: Overview’ (Thompson Reuters 2012) <[https://uk.practicallaw.thomsonreuters.com/7-501-5564?transitionType=Default&contextData=\(sc.Default\)&firstPage=true&bhcp=1](https://uk.practicallaw.thomsonreuters.com/7-501-5564?transitionType=Default&contextData=(sc.Default)&firstPage=true&bhcp=1)>

Rotaru V, ‘The Restructuring Directive: a Functional Law and Economics Analysis from a French Law Perspective’ (2019) *Droit et Croissance*, available from < <https://droitetcroissance.fr/wp-content/uploads/2015/01/Vasile-Rotaru-The-Restructuring-Directive-a-functional-law-and-economics-analysis-from-a-French-law-perspective.pdf>>

## 8. News Articles

Dunne J, ‘Boston or Berlin?’ *The Irish Times* (Dublin, 23 Jun 2001) <<https://www.irishtimes.com/news/boston-or-berlin-1.314552>> accessed 4<sup>th</sup> October 2019

Hamilton P, ‘Majority of companies entering examinership since crash survived’ *The Irish Times* (Dublin, 3 July 2017) <<https://www.irishtimes.com/business/economy/majority-of-companies-entering-examinership-since-crash-survived-1.3141055>>

## 9. PhD Theses

Faucher B, “La conciliation judiciaire” (Doctoral thesis, Paris 2 1980)

Muller Y, “Le contrat judiciaire en droit privé” (Doctoral Thesis, University of Paris 1995)

## 10. Conference Papers

Dammann R, Paulus C, and Garcimartin F, ‘Directive on Preventive Restructuring Frameworks: Relative or Absolute Cramdown’ (session at the INSOL Europe Annual Congress, Copenhagen, Denmark, 27 September 2019)

Ignacio Tirado, Keynote Address “Relative vs Absolute Priority” (INSOL Europe Academic Forum, Copenhagen Denmark, 26 September 2019)



## 11. Letters

Baird D, Letter to Rolef de Weijts, et al, annexed to “Preventive Restructuring Framework and the Last Moment Introduction of Relative Priority (letter)” (2019)