



UNIVERSITÀ  
DEGLI STUDI  
FIRENZE  
DSG  
DIPARTIMENTO DI  
SCIENZE GIURIDICHE



## BEST PRACTICES IN EUROPEAN RESTRUCTURING

### Contractualised Distress Resolution in the Light of the Draft Directive on Preventive Restructuring (Com(2016) 723 Final)

5<sup>TH</sup> JULY 2018 (8.30-16.30)

CEPS - Centre for European Policy Studies

1 Place du Congrès, Brussels

The proposed **Directive on preventive restructuring**, some variant of which looks set shortly to be implemented, seeks to facilitate **out-of-court agreements** between distressed businesses and their creditors. States that have traditionally relied on formal insolvency procedures will have to enable parties to enter into **contractual and quasi-contractual agreements with very limited court involvement**.

This **move away from formal insolvency proceedings** would open up a vast area to private ordering, with all the associated opportunities and risks. Businesses and their advisors will have access to new devices to deal with distress and insolvency intended to enable faster and more effective restructuring. At the same time, the reduction in court involvement and other formalities would likely **create new risks for participants and third parties**, and perhaps, even for the economic system as a whole.

The introduction of this new framework, like that of any other, would probably be marked by significant uncertainty for all actors, with the usual resulting costs of additional advice, new drafting, higher risk premia, and foregone opportunities.

**Reducing uncertainty in this 'light touch' area of insolvency law is paramount.** Guidance on best practices can serve to fill this newly opened space in an adaptive and flexible manner.

The research, based on a sound conceptual framework and supported by **broad and deep empirical evidence** from four EU jurisdictions, takes up the challenge and spells **best practices** aimed at promoting an effective and efficient use of the devices designed by the draft Directive. The research is also drawn upon to provide **policy recommendations** towards strengthening of the draft Directive, possible measures to be taken by national legislators, and the conduct of important actors such as institutional lenders.

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The conference will feature speakers from the public and private sectors, including officials of the European Commission, members of the International Insolvency Institute, members of the Group of Experts on restructuring and insolvency law appointed by the European Commission, judges, professionals, and academics. Although the event is aimed at disseminating the results of a two-year in-depth study, it also seeks to engage in a debate with all attendants, all experts like yourself. [Registration is required.](#)

*The Conference will present the results from a project funded by the DG Justice of the EC, performed Università degli Studi di Firenze (Project Coordinator), Humboldt-Universität zu Berlin (Partner) and Universidad Autónoma de Madrid (Partner), supported by the Consejo General del Poder Judicial, Banca d'Italia and Entrepreneurship Lab Research Center (Associate Partners).*

[www.codire.eu](http://www.codire.eu)



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8.30-9.00 *Welcome coffee*

9.00-9.15 *Opening remarks*  
**Mihaela Carpus Carcea**

9.15-9.45 Introduction to the project and main results  
**Lorenzo Stanghellini**

**PANEL I. PURELY OUT-OF-COURT RESTRUCTURING**  
9.45-11.15 Chair: **Alexander Klauser**  
Panelist: **Christoph Paulus**  
Discussants: **Nicolaes Tollenaar, Américo Carola**

11.15-11.30 *Coffee Break*

**PANEL II. SEMI-FORMAL RESTRUCTURING**  
11.30-13.00 Chair: **Jean-Luc Vallens**  
Panelist: **Riz Mokal**  
Discussant: **Stephan Madaus**

13.00-14.15 *Working Lunch*

**LUNCH-TIME PANEL III. THE PROPOSAL DIRECTIVE: DRAFTING IMPLICATIONS OF THE FOUR-COUNTRY PROJECT**  
13.00-14.15 Chair: **Mihaela Carpus Carcea**  
Panelists: **Riz Mokal, Christoph Paulus, Lorenzo Stanghellini, Ignacio Tirado**

**PANEL IV. THE SPECIAL SITUATION OF SMSES**  
14.15-15.45 Chair: **Irit Mevorach**  
Panelist: **Ignacio Tirado**  
Discussants: **Andrea Csóke, Stathis Potamitis**

**FINAL SESSION**  
15.45-16.30 Q&A Session  
Closing Remarks: **Ondřej Vondráček**



## **SPEAKERS**

**Américo Carola** | Millennium BCP, Member of the Executive Board of PNCB - Plataforma de Negociação Integrada de Créditos Bancários

**Mihaela Carpus Carcea** | Legislative Officer at the European Commission, DG Justice

**Andrea Csóke** | Judge in Budapest

**Alexander Klauser** | Lawyer

**Stephan Madaus** | Martin Luther Universität

**Irit Mevorach** | University of Nottingham

**Riz Mokal** | Barrister, Honorary Professor in Laws, UCL - Visiting Professor, Università di Firenze

**Christoph Paulus** | Humboldt Universität zu Berlin, Member of the Group of Experts on restructuring and insolvency law

**Stathis Potamitis** | Lawyer, Member of the Group of Experts on restructuring and insolvency law

**Lorenzo Stanghellini** | Università di Firenze, Member of the Group of Experts on restructuring and insolvency law

**Ignacio Tirado** | Universidad Autónoma de Madrid

**Nicolaes Tollenaar** | RESOR, Amsterdam

**Jean-Luc Vallens** | Honorary Judge, Emeritus at the Universities of Strasbourg and Paris, Member of the Group of Experts on restructuring and insolvency law

**Ondřej Vondráček** | European Commission, DG Justice

