

# eurofenix<sup>®</sup>

The journal of INSOL Europe  
Winter 2018/19



## Relativity & Realism in Restructuring

*Cross-class  
cram-down  
mechanism  
examined*

### *Also in this edition:*

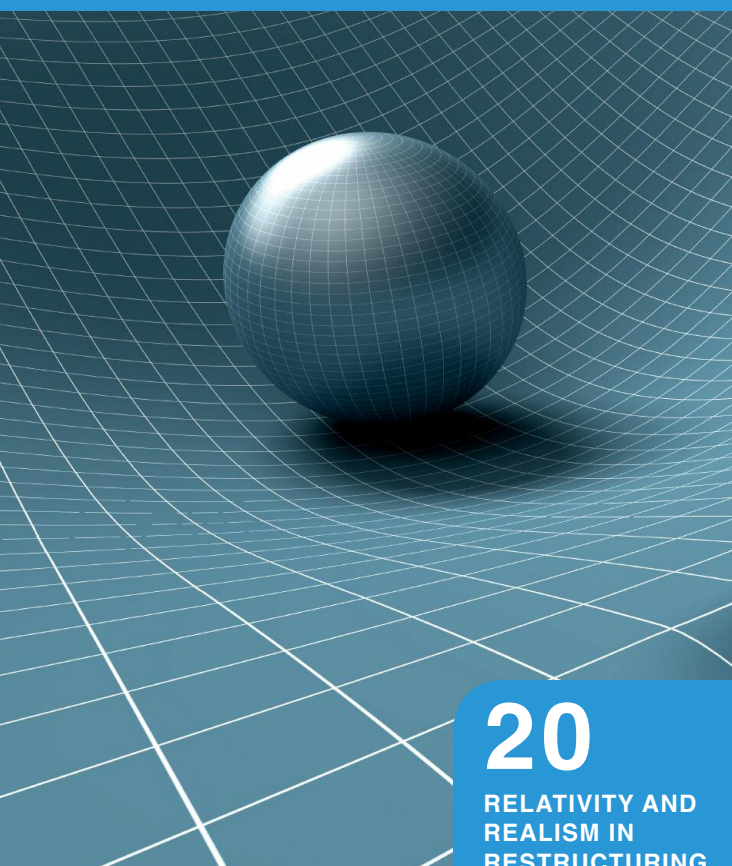
- Athens: Annual Congress Report
- Paradigm Shift in Portugal
- Innovation in Small Jurisdictions
- Legal Frameworks in Kosovo
- Conferences, books *and more...*

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## CONTENTS

3

### Welcome from the Editors

Catarina Serra introduces us to the new edition

6

### President's Column

Alastair Beveridge updates us on his plans and actions for the forthcoming year

8

### News and Events

Conference reports, news and updates from our organisation across Europe

12

### Technical Insight

Emmanuelle Inacio takes a closer look at the General Approach of the Council on the European Commission's Proposal Directive on Preventive Restructuring Frameworks

14

### Annual Congress in Athens

Paul Omar and Myriam Maily report on the 37th Annual Congress in Athens

18

### Academics reach new heights

Alexandra Kastrinou and Paul Omar report on the 14th Academic Forum Conference in Athens

20

### Relativity and realism in European restructuring

Riz Mokal and Ignacio Tirado ask if Newton has had his day?

24

### A paradigm shift in Portuguese bank culture

Francisco da Cunha Matos writes on the necessary changes to the bank culture in Portugal

26

### Switzerland's new (or updated...) international insolvency law

Rodrigo Rodriguez and Marjolaine Jakob report on the revised Swiss recognition act

## CONTENTS

- 28 The JCOERE Project**  
Irene Lynch Fannon and Jennifer L. L. Gant provide an update on INSOL Europe's involvement in the new EU-funded project
- 30 Insolvency practice in small jurisdictions: Jersey**  
Paul Omar highlights Jersey as an example of a small jurisdiction that punches above its weight
- 32 Blockchain: A chance for turnaround procedure modernisation**  
Yutong Zhang presents a summary of his Richard Turton Award winning paper
- 34 The development of insolvency law in Kosovo**  
Drini Grazhdani reports on the new legal frameworks following the collapse of the country's banking system
- 36 The long arm of US law: Avoidance actions without borders**  
David Conaway writes on the long reach of the US Bankruptcy Code
- 38 Country Reports**  
Updates from The Netherlands, Ukraine, Norway, Latvia, Italy
- 42 Technical Update**  
Myriam Mailly reports on new technical content and other updates on the INSOL Europe website
- 44 Book Reviews**  
Paul Omar presents the latest selection of new publications reviewed by our members
- 46 Dates for your diary**  
INSOL Europe contacts and dates for your diary



## 30 INNOVATION IN SMALL JURISDICTIONS



## 36 US LAW IN THE EU



## Private Equity Awards in France: Perspectives from Europe



INSOL Europe was invited to attend the 17th edition of the Private Equity Exchange & Awards in Paris on 21 November 2018, writes Catherine Ottaway.

Our Deputy President Piya Mukherjee spoke on a panel dealing with the restructuring industry, to give her perspectives from Europe.

This year the event was dedicated to 'Entrepreneurship, Venture and Growth Capital', with the conference including 24 roundtables on topics such as Private Equity best strategies: Leader's secrets; Shopping: Seizing opportunities in a changing world; France: A renewed European pillar; Managing restructuring through skills and teams, Stepping up through digitalisation, and LBO limit: Is the sky the limit... In addition to the conferences, one-to-one meetings were organised for networking before the gala dinner.

# ACURIA Conference

*Lisbon, 26 October 2018*

*Lisbon in October, the weather still carrying some of the warmth of late summer, saw the holding of the conference on the ACURIA Project, writes Paul Omar.*

The event witnessed a consortium of universities from Portugal (Coimbra), Italy (Florence), Poland (Gdansk) and the Netherlands (Maastricht) set out their preliminary findings from empirical research carried out by watching the performance of different courts, concerning corporate restructuring and insolvency. The objective of the research was to identify best practices and blockages in judicial performance in the four jurisdictions identified, and to draw common conclusions where possible.

The colloquium began with a welcome from Helena Mesquita Ribeiro (Assistant Secretary of State for Justice), who together with Catarina Frade (Coimbra), the Project Coordinator, and João Paulo Dias (Executive Director, Centre for Social Studies, Coimbra) underlined the importance of the project in both domestic and international terms, particularly given the legislative changes intervening at both national and European levels in recent years.

The morning was taken up by a presentation from each of the national teams of their research methodology, early findings and results from structured interviews held with stakeholders. Common themes soon emerged, of resourcing and case management problems, judicial training and overseen issues, albeit to different degrees across the countries studied. The pace of legislative change was also referenced as a point of contention with fast-paced reforms requiring periodic capacity-building and stakeholder buy-in.

Three substantive sessions completing the conference agenda addressed themes related to the research study. The first was the keynote speech offered by Paul Omar (Technical Research Coordinator, INSOL Europe), who was presented by Catarina Serra (Justice of the Portuguese Supreme Court, Joint Chief Editor of Eurofenix, INSOL Europe). The speech was themed around the sunset of rescue and how judicial inventiveness was called upon more and more to supplement the gaps in the legislation in order to fulfil the ideal of restructuring.



The first afternoon session then picked up the issue of challenges to the judicial system. Led by the chair, Ana Conceição (Leiria Polytechnic Institute), presentations given by Judge Fatima Reis Silva (Lisbon Court of Appeal), Bob Wessels (Emeritus Professor, Leiden), Judge Luciano Panzani (Rome Court of Appeal) and Bartosz Groele (Allerhand Institute) addressed the position, in each of the jurisdictions, about the focus of the study, and provided an account of recent changes, including at European level, which have added to the difficulties of the judicial task.

At the end of the day, under the aegis of Judge Amélia Rebelo (Aveiro Commercial Court), the final session drew out the themes of cross-border and group of companies restructurings, of particular concern to Portugal, the panel being composed of Judge Fernando Tainhas (Lisbon Commercial Court), Paulo Valerio and Rui Castro Lima, both practitioners in the field of insolvency. Conclusions here focused on the need for more training for judges (and practitioners) and the development of best practice guides, drawn from international experience, particularly necessary given the paucity of local experience in major restructurings of these types. The conference was then closed with an address by Narciso Magalhães Rodrigues (High Council of the Judiciary), offering a roundup of the day's themes and their importance.

Further information on the project, including presentations and papers from this event, will be made available via the project website at: [acuria.eu](http://acuria.eu)