

THOMAS HIMMER

Das europäische Konzerninsolvenzrecht nach der reformierten EuInsVO

*Max-Planck-Institut
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*Studien zum ausländischen
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Neues Europäisches Insolvenzrecht Reformierten Euinsvo

Gunnar Lennart Schmüser



Neues Europäisches Insolvenzrecht Reformierten EuInsVO:

Das europäische Konzerninsolvenzrecht nach der reformierten EuInsVO Thomas Himmer, 2019-07-08 In der ursprünglichen Fassung der EuInsVO setzte der europäische Gesetzgeber in puncto Konzerninsolvenz aus praktischen und politischen Gründen ganz bewusst auf. Insbesondere in grenzüberschreitenden Konstellationen wurde das Fehlen eines speziellen Rechtsrahmens für Konzerninsolvenzen als enormes Hindernis für eine effiziente Abwicklung empfunden. Mit den seit dem 26.6.2017 geltenden Konzerninsolvenzrechtsvorschriften der reformierten EuInsVO versucht der europäische Gesetzgeber dieser Problematik entgegenzutreten. Thomas Himmer zeigt auf und analysiert, welche Wirkkraft diese neuen europäischen Vorschriften hinsichtlich eines kohärenten und damit funktionsfähigen Konzerninsolvenzrechts entfalten können. Im Fokus stehen dabei insbesondere die Regelungen zum einheitlichen COMI zur allgemeinen Verfahrenskooperation sowie zum Gruppenkoordinationsverfahren.

Neues Europäisches Insolvenzrecht in der reformierten EuInsVO Erik Neumann, 2015-07-29 Examensarbeit aus dem Jahr 2014 im Fachbereich Jura / Zivilrecht / Handelsrecht / Gesellschaftsrecht / Kartellrecht / Wirtschaftsrecht, Note 14 Punkte, 133 Seiten, Martin Luther Universität Halle-Wittenberg, Juristischer Bereich der Juristischen und Wirtschaftswissenschaftlichen Fakultät, Sprache Deutsch.
Abstract: Die vorliegende Schwerpunktbereichsarbeit im Bereich Forensische Praxis / Wahlbereich transnationale Rechtsverfolgung beschäftigt sich mit der Reform der Europäischen Insolvenzverordnung (EuInsVO) wie sie im Reformvorschlag der Europäischen Kommission vom 12.12.2012 (COM 2012 744 final) angelegt ist. Sie behandelt hierzu zunächst die Schwierigkeiten, welche sich im Rahmen der Anwendung der bisherigen Verordnung in der Praxis gezeigt haben. Im Anschluss werden die von der Kommission vorgeschlagenen Änderungen vorgestellt und insbesondere im Hinblick auf die Lösung der zuvor dargestellten Probleme bewertet. Abschließend enthält die Arbeit einen Ausblick auf mögliche künftige Reformen und Entwicklungen im Europäischen Insolvenzrecht. Durch die vorgeschlagenen Änderungen soll die Effizienz und Effektivität von grenzüberschreitenden Insolvenzverfahren maßgeblich gesteigert werden, was nach Aussage der Kommission jährlich ca. 50.000 Unternehmen betreffen würde. Maßgebliches Ziel der Reform ist die Abkehr von der Unternehmensliquidation hin zu einer europäischen Rettungs- und Sanierungskultur. Damit soll vor allem auch der Kurs nachgezeichnet werden, den viele nationale Insolvenzrechtsordnungen in den letzten Jahren beschritten haben. Im deutschen Rechtsraum ist hier insbesondere das Gesetz zur weiteren Erleichterung der Sanierung von Unternehmen (ESUG) zu nennen. Gerade in Zeiten fortwährender Wirtschaftskrisen, Bankenrettungen und Staatsverschuldungen können selbst rentable Unternehmen schnell häufig sogar unverschuldet in eine wirtschaftliche Schieflage geraten. Durch die nachfolgende Insolvenz und Zerschlagung gehen jährlich ca. 1,7 Millionen Arbeitsplätze in der EU verloren. Daneben kommt es aber auch zu einer erheblichen Einbuße an wirtschaftlichen Werten, da der Zerschlagungswert eines Unternehmens regelmäßig beträchtlich unter dessen Fortführungswert liegen wird. Letzterer kann jedoch nur durch eine Sanierung des angeschlagenen Unternehmens realisiert werden. Durch die Reform des bestehenden Europäischen Insolvenzrechts beabsichtigt die Europäische Kommission geringere

Rahmenbedingungen für angeschlagene Unternehmen zu schaffen und somit redlichen Unternehmern eine zweite Chance zu ermöglichen *EuInsVO - Kommentar* Andreas Schmidt, 2023-11 *Grenzüberschreitende Insolvenzen im europäischen Binnenmarkt* Bettina Nunner-Krautgasser, Thomas Garber, Clemens Jauffer, 2017 **EuInsVO** Andreas Schmidt, 2019-12-16

Die Zusicherung nach Art. 36 EuInsVO Lukas Schmidt, 2019-11-26 Das grenzüberschreitende Insolvenzrecht hat stark an theoretischer und praktischer Bedeutung gewonnen. Dies aussert sich nicht zuletzt durch harmonisierende Sekundärrechtsakte der Europäischen Union insbesondere in Gestalt der Europäischen Insolvenzverordnung und ihrer Neufassung. Eine wesentliche Neuerung ist die Einführung der Zusicherung nach Art. 36 EuInsVO. In Anlehnung an eine im englischen Recht für komplexe grenzüberschreitende Konzerninsolvenzen entwickelte Praxis dient die Zusicherung des Hauptinsolvenzverwalters die betreffenden Gläubiger innerhalb des Hauptinsolvenzverfahrens so zu behandeln als ob ein Sekundärinsolvenzverfahren eröffnet worden wäre der Vermeidung der Eröffnung von Sekundärinsolvenzverfahren. Unter der Prämisse das viel kritisierte und zum Teil abgelehnte Instrument möglichst operabel zu machen setzt sich Lukas Schmidt umfassend mit dem Regelungskomplex der Zusicherung auseinander EuInsVO Heinz Vallender, 2024-05 **Die**

deutsche Ausgestaltung des Rechtsbehelfs nach Art. 5 EuInsVO Laura Lecoutre, 2023 Mit der Neufassung der Europäischen Insolvenzverordnung wurde in Art. 5 EuInsVO ein neuer Rechtsbehelf eingeführt dessen Anwendung in der Praxis mehrere Fragen und Probleme in der konkreten Umsetzung des Rechtsbehelfs aufkommen liess. Das Werk konzentriert sich auf die prozessuale Seite der Überprüfung der Eröffnungsentscheidung also auf die Voraussetzungen und Folgen der Anfechtbarkeit. Nach einer Überprüfung des europäischen Lösungsansatzes analysiert die Verfasserin umfassend und kritisch die Ausgestaltung des Rechtsbehelfs im deutschen Insolvenzrecht. Die Arbeit bietet Lösungen für die Praxis an und unterbreitet am Ende einen fundierten Vorschlag für eine Neufassung des Art. 102c 4 EGIinsO zur Schliessung bestehender Lücken **Das Zusammenspiel zwischen Haupt- und Sekundärinsolvenzverfahren nach der EuInsVO**

Gunnar Lennart Schmüser, 2009 Dieses Buch beschäftigt sich mit dem 3. Kapitel der EuInsVO insbesondere mit der Auslegung des Art. 31 EuInsVO. Das Verhältnis der beiden Insolvenzverwalter bestimmt das Zusammenspiel zwischen Haupt und Sekundärinsolvenzverfahren. Es wird von der exponierten Stellung des Hauptinsolvenzverwalters geprägt der den Koordinationspunkt eines internationalen Insolvenzfalls bildet. Das Sekundärinsolvenzverfahren ist einerseits Hilfsverfahren andererseits den Gläubigerinteressen des Sekundärinsolvenzverfahrens verpflichtet. Die Rechte des Hauptinsolvenzverwalters die Funktion des Sekundärinsolvenzverwalters und die Grundprinzipien der EuInsVO stehen der Annahme eines Subordinationsverhältnisses zwischen Haupt und Sekundärinsolvenzverfahren entgegen EuInsVO Heinz Vallender, 2017-06

EU-Insolvenzverordnung Detlef Haß, Christian Herweg, 2005 **Registrierte Gegenstände im grenzüberschreitenden Insolvenzverfahren nach der EuInsVO** Isabelle Schneider, 2019 Mit der wachsenden internationalen Verzahnung der Unternehmensaktivitäten im Europäischen Binnenmarkt wächst als Kehrseite auch die

Anzahl der Insolvenzen mit grenzüberschreitendem Bezug Die Europäische Insolvenzverordnung EuInsVO schafft hierfür ein einheitliches Internationales Insolvenzrecht Die Arbeit untersucht wie registrierte Gegenstände also Grundstücke Schiffe und Luftfahrzeuge die in die Insolvenzmasse eines grenzüberschreitenden Verfahrens fallen nach der EuInsVO behandelt werden Im Kern beantwortet die Arbeit die Frage wie sich ein Insolvenzverfahren das in einem EU Mitgliedstaat eröffnet worden ist auf die in einem anderen Mitgliedstaat registrierten Gegenstände des Schuldners auswirkt und wie eine Verwertung durch den Insolvenzverwalter oder einen dinglich besicherten Gläubiger erfolgen kann Die jüngsten Insolvenzen der Fluggesellschaften Air Berlin und Niki im Jahr 2017 sowie zahlreicher Schiffsfonds zeigen die Relevanz und Aktualität dieses Themas **Das neue Insolvenzrecht mit EU-Übereinkommen** Udo Weinbörner, 1997-01-01

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Table of Contents Neues Europ Isches Insolvenzrecht Reformierten Euinsvo

1. Understanding the eBook Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - The Rise of Digital Reading Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - Advantages of eBooks Over Traditional Books
2. Identifying Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - User-Friendly Interface
4. Exploring eBook Recommendations from Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - Personalized Recommendations
 - Neues Europ Isches Insolvenzrecht Reformierten Euinsvo User Reviews and Ratings
 - Neues Europ Isches Insolvenzrecht Reformierten Euinsvo and Bestseller Lists

5. Accessing Neues Europ Isches Insolvenzrecht Reformierten Euinsvo Free and Paid eBooks
 - Neues Europ Isches Insolvenzrecht Reformierten Euinsvo Public Domain eBooks
 - Neues Europ Isches Insolvenzrecht Reformierten Euinsvo eBook Subscription Services
 - Neues Europ Isches Insolvenzrecht Reformierten Euinsvo Budget-Friendly Options
6. Navigating Neues Europ Isches Insolvenzrecht Reformierten Euinsvo eBook Formats
 - ePub, PDF, MOBI, and More
 - Neues Europ Isches Insolvenzrecht Reformierten Euinsvo Compatibility with Devices
 - Neues Europ Isches Insolvenzrecht Reformierten Euinsvo Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - Highlighting and Note-Taking Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - Interactive Elements Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
8. Staying Engaged with Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
9. Balancing eBooks and Physical Books Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - Setting Reading Goals Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - Fact-Checking eBook Content of Neues Europ Isches Insolvenzrecht Reformierten Euinsvo
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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web oct 18 2008 1 there is no one without professional background who performs a one arm handstand of any kind with the correct hollow body alignment 2 there is no one with any real ability to hold the closed leg straight body one arm handstand for an extensive amount of time without any circus specialized training

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