

CONFERENCE ON EUROPEAN RESTRUCTURING AND INSOLVENCY LAW



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De Montfort University
United Kingdom

The Hon Lady Wolffe

Court of Session
Scotland

Contact:

Prof. Reinout Vriesendorp
Leiden Law School
PO Box 9520
2300 RA Leiden
The Netherlands

E: info@ceril.eu

W: www.ceril.eu

To: All CERIL Conferees
From: CERIL Executive
Date: May 2021
Re: **Annual Report CERIL 2020**

Dear Conferee,

We hereby present to you the 2020 Annual Report of the Conference on European Restructuring and Insolvency Law (CERIL).

This Annual Report provides an overview of the CERIL activities that took place in 2020. This was a special year for CERIL because of its incorporation as a formal association (*vereniging*) under Dutch law. In addition, CERIL adapted its policy objectives, including an extension and diversification of its membership constituency and the expansion of the Executive with two new members. The Annual Report also contains an updated list of Conferees and Working Parties.

In March 2020 CERIL published Statement 2020-1. As Europe (and the globe in its entirety) was severely hit by the COVID-19 outbreak, CERIL issued this Statement concerning the consequences of the pandemic for insolvency legislation.

We are pleased to present this detailed overview of activities and to inform all Conferees of CERIL.

The CERIL Executive

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1. Introduction

The Conference on European Restructuring and Insolvency Law (CERIL) is an independent non-profit, non-partisan, self-supporting organisation of approximately 75 lawyers and other restructuring and insolvency practitioners, law professors and (insolvency) judges committed to the improvement of restructuring and insolvency laws and practices in Europe, the European Union and in its Member States. CERIL was founded on a handshake in 2015 in Brussels by a group which presently forms the heart of the Executive. In 2017, CERIL presented its first Statement and Report.

CERIL's primary purpose is to advise, at its own motion or at request, on technical and policy issues relating to restructuring and insolvency laws, regulation and practice and any related laws, both to European Union institutions as well as Member States and other interested institutions.

Joining CERIL as a member (Conferee) is by invitation only. To secure that its Conferees are leading scholars, judges and practitioners in the field, CERIL started with inviting the experts on restructuring and insolvency (who had been appointed by the European Commission to assist in drafting its harmonisation initiatives) and a selection of persons appointed by the European Law Institute (ELI) to its project 'Rescue of Business in Insolvency Law', to become founding Conferees.

Initially, CERIL was formed as an informal group in 2016 by founding members Prof. em. Bob Wessels, the late Prof. em. Ian Fletcher, Prof. Stephan Madaus, Prof. Ignacio Tirado, Prof. Reinout Vriesendorp, Prof. Tuula Linna, and Mr. Giorgio Corno.

As per 31 December 2020, CERIL has 76 Conferees, representing experts from nearly all EU Member States and some other European countries. The members of the Executive are:

1. Prof. em. Bob Wessels (Chair)
2. Prof. Ignacio Tirado (Vice Chair)
3. Prof. Reinout Vriesendorp (Secretary/Treasurer)
4. Mr. Giorgio Corno
5. Prof. Tuula Linna
6. Prof. Stephan Madaus
7. Prof. Elina Moustaira
8. Dr. Paul Omar
9. Hon. Lady Sarah Wolffe

In its work, the Executive is supported by Gert-Jan Boon (Adjunct Secretary) and Defne Taşman (assistant to the secretariat).

To date, CERIL has published the following Statements (and Reports):

- CERIL Statement (and Report) 2017-1 Clash of Principles: Equal Treatment of Creditors vs. Protection of Trust in European Transactions Avoidance Laws
(Reporter: Prof. Reinhard Bork)
- CERIL Statement (and Report) 2018-1 The Realisation of the EU Insolvency Regulation 2015 (EIR 2015) in the EU Member States
(Reporters: Prof. Bob Wessels and Prof. Stephan Madaus)

CERIL is an independent non-profit, non-partisan, self-supporting organisation of persons committed to the improvement of restructuring and insolvency laws and practices in Europe, the European Union and its Member States

- CERIL Statement (and Report) 2018-2 Cross-Border Restructuring and Insolvency Post-Brexit
(Reporters: Prof. Francisco Garcimartín and Prof. Michael Veder; Research Associate: Prof. Ángel Espiniella)
- CERIL Statement (and Report) 2019-1 on the CERIL-ELI REPORT on UNCITRAL’s Draft model law on enterprise group insolvency
(Reporters: Nora Wouters and Prof. Stephan Madaus; Research Associate: Ilya Kokorin)
- CERIL Statement (and Report) 2019-2 Reversal of Value Extraction Schemes
(Reporters: Prof. Reinhard Bork and Prof. Catarina Serra)
- CERIL Statement 2019-3: A Reply to UNCITRAL’s Model Law on Enterprise Group Insolvency
(Reporters: Nora Wouters and Prof. Stephan Madaus; Research Associate: Ilya Kokorin)
- CERIL Executive Statement 2020-1 on COVID-19 and insolvency legislation
(Reporters: Prof. Stephan Madaus and Prof. Em. Bob Wessels; Research Associate: Gert-Jan Boon)

2. Incorporation of CERIL

On 7 February 2020, CERIL was incorporated as a Dutch law governed association (*vereniging*). As such, it has full legal personality which means that – when duly represented – it can operate in society as a legal entity on its own.

The maximum number of *members* (Conferees) is fixed by the Articles of Association at 100 (one hundred) persons. CERIL consists of three types of Conferees: Academic Conferee, Judicial Conferee and Ordinary Conferee.

- An Academic Conferee is an individual who holds at least for 70% of its working time a position with an academic institution or otherwise mostly pursues academic activities.
- A Judicial Conferee is an individual who hold at least for 70% of its working time a position with a judicial institute, such as a court or a comparable judicial or administrative institution.
- An Ordinary Conferee is an individual, not being an Academic Conferee or Judicial Conferee, who otherwise takes an active interest in issues regarding restructuring and insolvency law.

The Executive may appoint Research Associates (other than Conferees) for the duration of a specific project initiated by CERIL, or for assistance in one or more Working Parties.

The governance of the newly incorporated association is based on its Articles of Association (*statuten*) which are in Dutch but an unofficial translation can be found on the [website](#). As specified in the Articles of Association, CERIL consists of the following bodies:

- General Assembly
- Executive, entrusted with daily management
- Optionally: an Advisory Board and additional committees.

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2.1 General Assembly

The General Assembly consists of all CERIL Conferees, it decides in particular on (a) appointment, suspension and dismissal of members of the Executive, (b) approval of CERIL's budget, annual accounts and annual report, (c) the appointment and dismissal of an external auditor, (d) amendment of the articles of association, and (e) dissolution of CERIL. For an overview of the Conferees, see below (0).

2.2 Executive

The Executive of CERIL is responsible for the day-to-day management. It is composed of nine Conferees at the end of 2020. The members of the Executive retire according to a schedule to be drawn up by the Executive according to a roster. In general, an appointment lasts three years with possibility for reappointment for a period of a maximum of three years. For an overview of the Executive, see above (1).

2.3 Advisory Board

In addition to the General Assembly and the Executive, the Executive may decide to set up and cancel an Advisory Board consisting of three or more members. The main Advisory Board's task is to provide solicited and unsolicited advice to the Executive on all matters concerning the association. In 2020 it has not been found necessary to establish an Advisory Board.

2.4 Additional committees

The Articles of incorporation provide the institution of other committees by the General Meeting:

1. *Standing Dispute Committee*

Disputes between CERIL and a Conferee or between a Conferee and one of the CERIL bodies concerning whether an act or omission is in accordance with the Articles of Association or the regulations are settled by the Executive. If this does not lead to a satisfactory outcome, the dispute will be settled by a *Standing Dispute Committee*.

This Committee consists of Prof. Stefania Bariatti, Prof. Rodrigo Rodriguez, and Ms. Nora Wouters, with alternate members: Prof. Christoph Paulus and Mr. Stathis Potamitis. All (alternate) members of this committee were appointed at the first General Meeting of CERIL on 18 November 2020.

2. *Audit Committee*

In accordance with article 15 of the Articles of incorporation, at the first General Meeting on 18 November 2020 an *Audit-Committee* was appointed, consisting of: Dr. Juan Ferré, Prof. Paula Moffatt and Judge Piet Neijt.

The task of the *Audit Committee* is to investigate the draft financial statement drawn up by the treasure on behalf of the Executive for adoption in the General Meeting following the fiscal year and to report to the General Meeting when asked to approve the financial statement and to discharge the Executive.

Neither the members of the Executive nor the members of the Advisory Board or the additional committees receive any compensation or reimbursement of expenses.

3. CERIL's policy objectives

In the spring of 2020, all existing Conferees were informed about the new legal structure of CERIL and were requested to confirm continuation of their membership (implying acknowledgment of the new formal structure of CERIL, including membership requirements as laid down in the Articles of Association).

For the years 2020-2021 CERIL decided – in addition to its establishment as an association – to implement five policies, i.e.:

1. To increase the involvement of its members in furthering the goals of CERIL, including the organisation of periodical or annual Conferences (live or online) to ensure and widen in-depth discussion within Working Parties covering existing and new projects;
2. To broaden its Executive Board in order to increase the representation of Central and East European countries;
3. To promote gender balance at all levels of CERIL;
4. To involve younger talent as Research Associates, to allow them to participate in top of the bill discussions and considerations, to ensure coherence in their texts, and to enthuse them on the road to membership, and
5. To allow applications for joint studies with (and (co-) funding by) European research institutes and EU bodies (e.g. the Commission and the European Parliament) and international associations (e.g. International Insolvency Institute (III)), and for consultative status to other organisations (e.g. UNCITRAL).

In 2020, several Research Associates have been involved in ongoing projects. A plan for joint studies and for consultative status to other organisations is in development.

4. Expansion of Executive

In view of CERIL's adopted policy objectives and its newly achieved legal status, the Executive decided to expand itself with additional members. At the first General Meeting (on 18 November 2020), Prof. Elina Moustaira and Hon. Lady Justice Sarah Wolffe were appointed as member of the Executive. The Executive Board currently consists of 9 members.

5. CERIL Executive Statement 2020-1 on COVID-19 and insolvency legislation

On 20 March 2020, CERIL issued the CERIL Executive Statement 2020-1. It presents the results of a brief study by the Executive concerning the effects of the sudden appearance of the COVID-19 pandemic on the insolvency systems in Europe. It recommends two steps to be taken immediately by European national legislators: i) suspension of the duty to file for insolvency proceedings based on over-indebtedness and ii) response to the illiquidity of businesses.

In addition, the EU and national legislators were urged to consider measures regarding:

- Interim financing;
- Suspending the duty to file based on the inability to pay;
- ‘Hibernation’ (or: winter sleep) for (small) businesses, and
- Supporting the livelihood of entrepreneurs and their employees.

Whether the aftermath of the crisis will require additional adaptations in the insolvency, discharge and restructuring frameworks, in particular to address the position of public emergency funding claims adequately, remains to be seen and it will be covered by a separate CERIL Statement or another study in due course.

This Statement was prepared by Prof. Madaus and Prof. em. Bob Wessels assisted by Gert-Jan Boon (Research Associate). The entire CERIL Executive Statement 2020-1 can be found here: www.ceril.eu/news/ceril-statement-2020-1.

Press releases on the subject were also published at some 30 websites and social media and circulated in newsletters of organisations active in the field of restructuring and insolvency law. This included, among others: Global Restructuring Review, Oxford Business Law Blog, Corporate Finance Lab, and Eurofenix of INSOL Europe. Also, attention to the Statement was provided by [Italian Supreme Court](#) and the [Lithuanian Judicial Council](#).

6. Overview of events/meetings

Due to COVID-19 and the subsequent bans on travel and conferences, no physical meetings were held in 2020. Instead, all communication among the Executive, the Conferees in the General Meeting and the Annual Conference and also among the Working Parties occurred virtually/digitally. These include, among others:

- Executive meetings: 25 February, 28 April, 16 June, 24 June, 25 August, 8 September, 29 September, 27 October, 10 November, and 22 December 2020 (virtual meetings).
- General meeting: 18 November 2020 (virtual meeting)
- Annual Conference: 18 November 2020 (virtual meeting)

7. Financial statement 2020 (summary)

2020 was the first fiscal year for CERIL as a Dutch legal association. Because CERIL’s incorporation took place on 7 February 2020, its first fiscal year ending on 31 December 2020 was not a full calendar year. As of 2021, CERIL will use the calendar year as its fiscal year. At the end of 2020 (and by definition at the start of 2021), the financial situation of CERIL was as follows according to the draft financial statement 2020:

Profit and Loss account 2020	
amounts in EUR (€)	
Income	€ 4.400,00
Expenditures	€ 1.475,53
Total profit	€ 2.924,47

Balance sheet year-end 2020			
amounts in EUR (€)			
Assets		Liabilities	
Cash	€ 2.924,47	Equity	€ 3.584,47
Outstanding membership dues	€ 660,00		
Total	€ 3.584,47		€ 3.584,47

In accordance with Article 15(3)-(5) of CERIL's Articles of Association, the financial statement 2020 will be reviewed by the *Audit Committee*, which will produce a report to the next General Meeting. Based on the report, the General Meeting will discuss and approve the financial statement.

8. Overview of the activities of the Working Parties

Many Conferees are participating in more than one Working Party, which enriches a multi-jurisdictional view on the matters discussed. See for the Conferees participating in each Working Party: www.ceril.eu/working-parties. In 2020, CERIL had 15 Working Parties (WPs):

WP 1: Director's liability

- Co-chaired by Michal Barlowski and Joeri Vananroye
- Executive: Reinout Vriesendorp

WP 2: Avoidance actions

- Co-chaired by Reinhard Bork and Catarina Serra
- Executive: Tuula Linna

WP 3: Enterprise Groups

- Co-chaired by Stephan Madaus and Nora Wouters
- Executive: Bob Wessels

WP 4: Consumer rights

- Co-chaired by Catarina Frade and Annina Persson
- Executive: Tuula Linna

WP 5: Post-Brexit Cross-Border Instruments

- Co-chaired by Francisco Garcimartín and Michael Veder
- Executive: Bob Wessels

WP 6: Rights in rem

- Executive: Giorgio Corno

WP 7: Debt-for-equity swap

- Co-chaired by Stathis Potamitis and Roel Fransis
- Executive: Stephan Madaus

WP 8: Drafting a second edition of the CoCo Guidelines (2007)

- Co-chaired by Paul Omar and Tomas Richter
- Executive: Reinout Vriesendorp

WP 9: Code of Conduct for the Group coordinator

- Co-chaired by Andreas Geroldinger and Myriam Maily
- Executive: Bob Wessels

WP 10: Quality and effectiveness of insolvency systems

- Chaired by Ignacio Tirado

WP 11: Matters regarding the European Insolvency Regulation 2015 (EIR 2015)

- Co-chaired by Bob Wessels and Stephan Madaus

WP 12: Mediation in insolvency

- Chaired by Reinout Vriesendorp

WP 13: Banking confidentiality, secrecy, and privilege

- Co-chaired by Bob Wessels and Ignacio Tirado

WP 14: COVID-19 and insolvency legislation

- Chaired by the Executive

WP 15: Sovereign Debts

- Co-chaired by Christoph Paulus and Stathis Potamitis

In 2020, the Executive decided to engage Associate Researchers in projects of some Working Parties. Dr. Chiara Lunetti (Lawyer and lecturer, Università degli Studi di Milano & Université Paris I) was involved in the work of WP 11 on Annex Actions and Gert-Jan Boon (PhD candidate, Leiden University) was involved in the work of WP 14 on COVID-19 and insolvency legislation.

9. Overview of Conferees

As per 31 December 2020

EXECUTIVE

Chair

Prof. em. Bob Wessels
Leiden University
The Netherlands

Vice Chair

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UNIDROIT / University
Autónoma of Madrid
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Prof. Elina Moustaira
University of Athens
Greece

Dr. Paul Omar
Barrister, Gray's Inn (np) /
De Montfort University
United Kingdom

**The Hon Lady Sarah
Wolffe**
Court of Session Scotland
United Kingdom

OTHER CONFEREES

Prof. Stefania Bariatti
Italy

Michal Barlowski
Poland

Prof. Oleksandr Biryukov
Ukraine

Mylène Boché-Robinet
France

Prof. Reinhard Bork
Germany

Pavel Boulatov
Russia

Kathlene Burke
United Kingdom

Barry Cahir
Ireland

Dr. Miodrag Dordevic
Slovenia

Dr. Đuro Đurić
Serbia

Zoltan Fabok
Hungary

Dr. Juan Ferré
Spain

Prof. Catarina Frade
Portugal

Dr. Roel Fransis
Belgium

Dr. Arthur Galea Salomone
Malta

Prof. Jasnica Garašić
Croatia

**Prof. Francisco
Garcimartin**
Spain

**Prof. Andreas
Geroldinger**
Austria

Dr. Lech Gilicinski
Poland

**Prof. Aurelio Gurrea-
Martinez**
Spain

Dr. Jana Julia Hübler
Germany

Prof. Tuomas Hupli
Finland

Dr. Ivan Ikrényi
Slovakia

Dr. Marjolaine Jakob
Switzerland

**Prof. Marie Karlsson-
Tuula**
Sweden

**Prof. Joanna Kruczalak-
Jankowska**
Poland

Prof. Antonio Leandro
Italy

Nathalie Leboucher
France

Prof. Irene Lynch Fannon
Ireland

Catarina Macchi
Italy

Dr. Myriam Mailly
France

Prof. Renato Mangano
Italy

**Prof. Miguel Martínez
Muñoz**
Spain

Prof. Göran Millqvist
Sweden

Grégory Minne
Luxembourg

Prof. Paula Moffatt
United Kingdom

Nicoleta Mirela Năstasie
Romania

Piet Neijt
The Netherlands

Prof. Rimvydas Norkus
Lithuania

Annemari Õunpuu
Estonia

**Prof. em. Christoph
Paulus**
Germany

Prof. Annina Persson
Sweden

Stathis Potamitis
Greece

Prof. Juana Pulgar
Spain

Prof. Ilaria Queirolo
Italy

Dr. Tomáš Richter
Czech Republic

Prof. Rodrigo Rodriguez
Switzerland

Dr. Alexandros Rokas
Greece

Dr. Veronika Sajadova
Latvia

Dr. Ignacio Sancho
Spain

Siv Sandvik
Norway

Prof. Jessica Schmidt
Germany

Prof. Catarina Serra
Portugal

**Prof. Dominik
Skauradszun**
Germany

Stine Snertingdalen
Norway

Dr. Petr Sprinz
Czech Republic

Prof. Lorenzo Stanghellini
Italy

Emil Szczepanik
Poland

Adrian Thery Martí
Spain

Prof. Joeri Vananroye
Belgium

Prof. Melissa Vanmeenen
Belgium

Prof. Michael Veder
The Netherlands

Prof. Abel Veiga
Spain

Dr. Jiří Voda
Czech Republic

Prof. Rolef de Weijis
The Netherlands

Nora Wouters
Belgium

Prof. Oleg Zaitsev
Russia