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EU bank resolution framework: A comparative study on the relation with national private law

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Stellingen behorende bij het proefschrift

EU BANK RESOLUTION FRAMEWORK

*A comparative study on the relation with
national private law*

van Lynette Janssen

1. The bank resolution framework should be considered part of bank insolvency law in the Netherlands, Germany and England.
2. The EU bank resolution framework is often studied in isolation. At the national levels in the Netherlands, Germany, and the UK, more attention should be paid to the fact that the bank resolution frameworks continue a historical trend towards further expanding bank-specific supervisory and insolvency frameworks as a reaction to bank insolvencies.
3. The bail-in mechanism in the EU bank resolution framework is not as innovative as is often suggested. The mechanism is based on corporate financial restructuring techniques.
4. By referring to the application of the transfer tools under Part 3a of the Dutch Wft, section 3:80(2) of the Dutch BW confirms the view that acquisition under universal title under Dutch law is no longer limited to the passing of a whole estate or a proportional part thereof.
5. The EU legislature should consider the differences in the hierarchies of claims in bank resolution and insolvency procedures and in the bank insolvency procedures under national law in its next steps towards further harmonization of bank insolvency law in the EU.
6. The European Banking Authority should develop more guidelines, standards and other documents about the interpretation and application of the bank resolution rules in the Member States to foster greater consistency in bank resolution procedures.
7. The implementation of directives into national law by simply referring in national legislation to the provisions of the directive should be avoided. It makes the national legislation less accessible.

8. Each insolvency lawyer in the EU should have at least a basic knowledge of US bankruptcy law.
9. Part of the EU integration project should become harmonization of the requirements for and routes to qualification as a lawyer in a member state and creation of more opportunities for lawyers admitted to the bar in one member state to work in other member states (in addition to the existing regime governing the free movement of lawyers in the EU).
10. Dutch law schools need to become more active in making their students aware of the possibilities to work at EU institutions and agencies after finishing law school.
11. Dutch PhD students in law should look more beyond their national borders. Presentations at international conferences, a research stay abroad, and participation in international research projects should be an important part of the training of each doctoral student.