CERIL report 2025-2 on reviewing the European Insolvency Regulation 2015

Boon, J.M.G.J.; Vriesendorp, R.D.; Vázquez García, J.

CERIL Report 2025-2 on

Reviewing the European Insolvency Regulation 2015

9 December 2025

CONFERENCE ON EUROPEAN RESTRUCTURING AND INSOLVENCY LAW

Contact
Dr. Gert-Jan Boon
Leiden Law School
PO Box 9520
2300 RA Leiden
The Netherlands
E: info@ceril.eu

Date: 9 December 2025
Re: CERIL Report 2025-2

Reporters: Dr. Gert-Jan Boon and Prof. Reinout Vriesendorp
Research Associate: Jaime Vázquez García

CERIL Report 2025-2 on

Reviewing the European Insolvency Regulation 2015

CERIL highlights in its Report the broad European support for the EIR 2015 as an instrument for cross-border insolvency cases. Nonetheless, experience with the EIR 2015 and recent legal developments suggest various areas for reform. CERIL recommends that further assessment of the EIR 2015 should consider the use of COMI, the treatment of the insolvency of groups of companies and revisit the EIR 2015's scope with regard to (confidential) preventive restructuring frameworks. In addition, refinements of the rules on insolvency-related judgments, exceptions to the lex fori concursus and the treatment of territorial (secondary) proceedings are urged. Lastly, the findings recommend making improvements to the EU interconnection of insolvency registers, enhancing cooperation and communication, particularly among judges, and considering the inclusion of rules in the EIR 2015 regarding insolvency proceedings in non-Member States.

Acknowledgements

This CERIL Report is prepared by CERIL Working Party (WP) 11 on Matters regarding the European Insolvency Regulation 2015. The WP that discussed and contributed to this Report consisted, in addition to its Reporters, of those conferees participating in this WP. The full list is available at: www.ceril.eu/working-parties/wp-11-matters-regarding-the-european-insolvency-regulation-2015.

The Reporters would like to express their gratitude to the CERIL Survey respondents for their contributions, and to Research Associate Mr Jaime Vázquez García, PhD researcher at the Autonomous University of Madrid (Spain) for his work in preparing and conducting the survey, analysing the data, and producing this Report.

Contents

1. Introduction

Ten years have passed since the adoption of the European Insolvency Regulation (EU) 2015/848[1] ("EIR 2015" or "the Regulation") by the EU legislator. This instrument, which recast the European Insolvency Regulation 1346/2000,[2] established a more uniform and directly applicable set of rules for cross-border insolvency proceedings across all EU Member States, with the exception of Denmark. The Regulation provides for a cross-border insolvency framework with rules dealing with, inter alia:

- The international jurisdiction of courts in a Member State to open insolvency proceedings (including related actions);
- The law applicable to such proceedings and their effects;
- The (automatic) recognition of insolvency proceedings and the decisions emanating from them in other Member States;
- The powers of insolvency practitioners;
- Cooperation and communication duties for insolvency practitioners and courts handling cross-border insolvency matters; and
- A specific regime for the insolvency of groups of companies.

According to Article 90(1) EIR 2015, the European Commission is expected to submit a report evaluating 'the application of this Regulation' by 2027. Anticipating this process, the Conference on European Restructuring and Insolvency Law (CERIL) has conducted an empirical study to assess the first decade of cross-border insolvency practice under the EIR 2015. This study aims to examine domestic experiences with cross-border insolvency cases, identifying areas and provisions that work well and those that need further improvements. To that end, this study identifies and gathers insights on the functioning of the EIR 2015 across Europe. These insights also provide a foundation for further discussions in view of the upcoming review of the EIR 2015.

With these aims, a survey was distributed among CERIL, which was open as well to non-CERIL members ("Survey"). The respondents were invited to share their views on the strengths, weaknesses, opportunities, and threats of the Regulation and to answer specific questions on different sections of the EIR 2015 with a view to identifying key areas for debate and potential reform.

The preliminary findings of this Survey were discussed at the 3rd CERIL International Conference, held on 8-9 May 2025 in Leiden, the Netherlands. This Report builds on those results and integrates additional feedback and commentary received during and after the conference, thereby reflecting a broad range of perspectives.

This Report is structured as follows: Chapter 2 introduces the core technical aspects of the survey and the respondents. Subsequently, Chapter 3 analyses the main results of the SWOT analysis by way of an item-based approach. This section corresponds to Part II of the Survey. Next, Chapter 4 explores selected key topics raised in response to the questions contained in Part III of the Survey, where specific sections of the EIR 2015 were preselected. The results presented in this Chapter will focus on the issues that generated the most discussion among the respondents. Chapter 5 presents further suggestions for improvement that have

[1] Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast), *OJ* L 141.

[2] Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings, *OJ* L 160.

emerged from the Survey, while Chapter 6 synthesises the main findings from the Survey, identifying the most salient themes and key areas relevant to evaluating the application of the EIR 2015.

2. The Survey

2.1 Introduction

The Survey was prepared in the context of the 3rd CERIL international conference on 8-9 May 2025 in Leiden. To mark the 75th anniversary of the Schuman Declaration, which laid down the foundations for what has become the European Union, CERIL hosted its conference under the title "Schuman 2.0. A New Horizon for European Restructuring and Insolvency Law. As this year also marks the tenth anniversary of the EIR 2015, one day of sessions was dedicated to the Regulation with view to discussing its future revision.

To kick off discussions and inspire ongoing and future debate, a Survey was prepared. Its preliminary results were disseminated on the first day of the conference and served as a reference point for discussions held therein. The project generated interest from the audience, including from attendants who had not yet taken part in it. To capture this broader engagement and enhance representativeness, the Survey was recirculated after the conference.

Overall, the Survey achieved broad geographical and professional coverage across Europe, as well as several other jurisdictions. The predominance of experienced respondents and the diversity of their roles lend robustness to the analysis presented in the following chapters.

2.2 General Features of the Survey

The Survey comprised a total of 47 questions. Only the first four questions, relating to general information about a respondent, were mandatory. The rest were voluntary questions and included several conditional questions that appeared only where relevant, based on a respondent's previous answers. The full set of questions can be found in the Annex.

The questions were grouped into four different sections:

i. General information about the respondents;
ii. Perceptions on the strengths, weaknesses, opportunities and threats of the EIR 2015;
iii. Specific questions on selected topics and provisions of the EIR 2015; and
iv. A concluding question on the overall effectiveness of the Regulation.

The Survey was made available using the online survey tool 'Qualtrics'. It was first opened on 16 April 2025 and initially closed on 1 May 2025, providing a 15-day response window that was used to conduct the preliminary analysis that was presented at the 3rd CERIL International Conference.

To further improve geographical and stakeholder diversity, the Survey was reopened several times: on the days of the conference, 8 and 9 May 2025; from 26 May-9 June 2025; from 25 August-15 September 2025; and from 24 September-4 October 2025. Targeted invitations were sent to experts from jurisdictions that had not been represented in the initial round. Thus, the total duration for collecting responses was 65 days, yielding 95 responses, of which 50 were validated for preparing this analysis. Entries that were entirely blank or appeared to be duplicate submissions were excluded from the analysis.

The survey was circulated internally among CERIL Conferees and Research Associates, but also announced publicly on the CERIL Website, LinkedIn, and during the 3rd CERIL International Conference to encourage responses from a wider audience.

2.3 Geographical Spread and Professional Background

Part I of the Survey gathered demographic information to contextualise the findings and assess the representativeness of the sample. Respondents were asked to indicate their primary jurisdiction, professional background, involvement with CERIL, and years of experience in cross-border insolvency. By knowing more about the respondents' professional and jurisdictional contexts, as well as their connection to CERIL, the variety of perspectives shared can be better understood.

Jurisdictional coverage

The responses represent a wide geographical spread and include the following 22 jurisdictions (in alphabetical order): Austria, Belgium, China, Czechia, Denmark, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Portugal, Romania, Slovenia, Spain, Sweden, Ukraine, and the United Kingdom.

The largest groups of respondents came from Germany, Italy, the Netherlands, Portugal, and the United Kingdom. Together, these five jurisdictions account for 26 of the 50 valid responses, with the Netherlands and the UK having the most respondents, 8 and 6 respectively.

Professional background

The respondents represented a wide range of professional roles. The majority were academics (28 respondents) followed by practitioners (10 respondents) and judges (4 respondents). Eight respondents classified themselves as "other", including two PhD candidates, one practitioner and academic, two lawyers, one retired judge, one academic currently serving as a judge and one individual who did not specify but selected "Judicial Conferee" later in the Survey.

After reclassification of the aforementioned respondents, the final composition was as follows (Figure 1):

- Academics: 31 people (62%);
- Practitioners: 13 people (26%); and
- Judges: 6 people (12%).

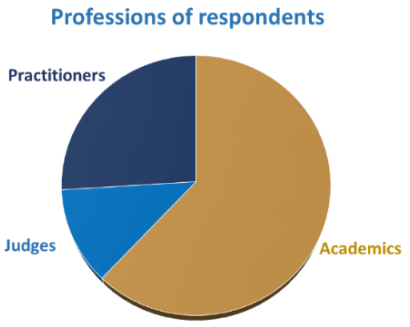

Figure 1 | Professional background

Involvement with CERIL

Of the 50 respondents, 76% were CERIL members: 23 Academic Conferees, 7 Ordinary Conferees, 6 Judicial Conferees, and 2 Research Associates. The remaining 12 respondents (24%) were non-Members.

Experience in cross-border insolvency

Respondents were also asked to indicate their years of experience in cross-border insolvency practice or research. Four categories were available: 0–5 years, 5–10 years, 10–15 years, 15–20 years, and more than 20 years.

A majority of the respondents were highly experienced: 28 respondents reported 15 years or more of experience, amounting to 56% of the responses (10 between 15-20 years of experience and 18 with over 20 years of experience). When including those with at least 10 years, this rises to 38 respondents (76%), demonstrating a strongly seasoned sample.

3. SWOT Analysis

3.1 Introduction

The second part of the Survey sought to identify the most relevant issues affecting the EIR 2015's framework. For this purpose, a SWOT analysis was employed, assessing the strengths, weaknesses, opportunities and threats of the EIR 2015. This tool is of particular value as it allows to pinpoint the main internal and external factors affecting the functioning of the Regulation. The strengths and weaknesses capture the positive and the negative internal elements, while the opportunities and the threats refer to the positive and the negative external factors that may enhance or hinder the current and future use of the Regulation.

SWOT analyses are frequently employed in public policy and stakeholder analysis. Given the nature of our study, it was considered a valuable tool to openly assess the EIR 2015. Based on their professional experience, respondents were asked to identify:

i. The key strengths and weaknesses of the Regulation in its present form; and
ii. The opportunities and threats that may arise in connection with its future revision or practical application.

To ensure conceptual clarity, concise descriptions of each term (strength, weakness, opportunity, and threat) were provided in the Survey. We opted to enquire about each element separately, by way of individual questions with open text fields so respondents could speak freely (without word limits) about the issues they deemed most relevant. Once the Survey closed, each response was read manually, analysed and classified by theme.

In this report, it is decided to present the most salient issues rather than to display all items reported. This decision was taken to allow for a more detailed analysis while keeping our results concise and accessible. The key topics are shown in the following table (Table 1) and examined in depth in the subsequent sections.

Strengths	Weaknesses
1. **Common rules** across EU (ex Denmark) 2. **Clarity** on key PIL matters 3. **Cooperation and communication** 4. **Coordination** of **main and secondary** proceedings	1. **Group insolvency proceedings** 2. **Scope** of EIR 2015 3. **Articles 8 and 10** 4. **Preventive Restructuring Frameworks** 5. **Third States**
Opportunities	**Threats**
1. **Effective rules for group insolvencies** 2. Framework for **preventive restructuring proceedings** 3. **Clarification/guidance on certain provisions** 4. **Third States** 5. **Digital assets** 6. **Alignment** with **UNCITRAL**	1. **New restructuring proceedings** 2. Dilution of **EU's cohesion** 3. **Not suited to group insolvencies** 4. **No amendments to Articles 8 and/or 10** 5. **Not addressing Third States** 6. **Inconsistencies in application and interpretation**

Table 1 | Overview SWOT analysis

3.2 Strengths

A total of 46 respondents addressed this question. Almost half (47%) identified the establishment of common, directly applicable rules in all Member States (save for Denmark) as one of its key strengths. Among these responses, 40% of the respondents referred specifically to the provisions on (automatic) recognition and enforcement, underlining their practical value in facilitating cross-border insolvency proceedings.

A second prominent and related strength, mentioned by 43% of respondents, was that the Regulation provides clarity on fundamental aspects of private international law ("PIL"). Approximately half of those respondents expressly highlighted that the centre of main interests ("COMI") concept is an element that enhances legal certainty.

Other strengths that were cited less frequently, but remain noteworthy, are the cooperation and communication rules for courts and insolvency practitioners (13%) and the rules on coordination main and secondary proceedings (11%).

When looking at the type of respondents by professional groups, it can be seen that academics mostly praised the existence of uniform EU-wide rules (72% of those who mentioned this point), while practitioners most often emphasised the clarity that the Regulation brought on the basic aspects of PIL (45% of respondents to that question). The judges expressed a comparable appreciation for both strengths, though their small number limits representativeness of this result.

3.3 Weaknesses

43 respondents commented on the perceived weaknesses of the Regulation. Almost half of the respondents (46.5%) noted that the principal shortcoming of the EIR 2015 lies in its failure to adequately deal with the insolvency of groups of companies.

The second most frequently cited weakness concerned Articles 8 and 10 EIR 2015, dealing with specific rules on the law applicable to rights *in rem* and retention of title. This is mentioned by 20% of the respondents, many of whom regard these provisions as obstacles to effective restructurings. Relatedly, respondents noted more generally the interplay of the Regulation with preventive restructuring frameworks as a problem, in particular, problems with its scope. Specifically, its exclusion of confidential restructuring proceedings as well as the Regulation's relationship with other EU instruments, such as the Brussels I Recast Regulation, received particular attention (both were indicated by 16% of the respondents).

Other weaknesses that were highlighted by the respondents included the absence of rules to deal with non-Member States (13%), the uncertainty surrounding which actions qualify as insolvency-related actions (11%) and practical issues relating to the interpretation, determination and adequacy of COMI (11%).

When looking at the type of respondents, we see consensus between academics and practitioners who indicate groups of companies as the most frequent shortcoming. Surprisingly, when turning to Articles 8 and 10 EIR 2015, 55% of the respondents were practitioners, despite the fact that they only represent a fourth of the total number of respondents. This suggests that the effect of these provisions raise a particularly strong concern for practitioners. The remaining weaknesses were highlighted mainly by academics,

with COMI and insolvency-related actions being solely highlighted by this category of respondents. Finally, judges expressed fewer specific criticisms, likely due to their smaller sample size, rather than lack of concern.

3.4 Opportunities

35 respondents provided an answer to this question. Their views broadly mirrored the themes emerging from the weaknesses, suggesting that respondents perceive reform potential precisely in those areas where difficulties are observed.

The leading opportunity (mentioned by 31% of the respondents) was to develop new or improved rules for group insolvencies. This was closely followed by new rules or even a separate instrument for preventive restructuring frameworks (26%) and by further clarification or guidance on certain provisions such as Article 3, Article 6 and the exceptions to the *lex fori concursus* (26% too).

Other opportunities highlighted were the introduction of rules to deal with non-Member States (17%), new provisions to deal with digital assets and technology (17%), the revision of the scope of the Regulation to address confidential proceedings or clarify its relationship with the Brussels I Recast Regulation (14%), and Articles 8 and/or 10.

When looking at the type of respondents, differences in support can be noted. Academics predominantly mentioned the need for reform of the group insolvency rules (90% of the respondents who highlighted this issue belong to this group) and the need for better interpretative guidance on the EIR 2015 (representing 78% of the respondents who mentioned it). In addition, academics were the sole group to refer to digital assets and issues related to insolvency proceedings with non-Member-States. On the other hand, practitioners mainly stressed the development of new rules for preventive restructuring frameworks (representing 33% of those who indicated this issue) and the amendment of Articles 8 and 10 EIR 2015 (representing 40% of respondents who highlighted this topic). Judges most often pointed to the need for clarification and guidance (representing 22% of the respondents that underscored this topic as an opportunity), though, again, this draws on a small sample size.

3.5 Threats

29 respondents commented on potential threats for the EIR 2015, representing about 58% of all valid responses to the Survey. Their answers to the Survey were notably more diverse.

The most frequently mentioned threat (21%) is the need to effectively address preventive restructuring frameworks by the Regulation. The next most cited threat (14%) is the possible dilution of the overall EU project or resurgence of national protectionism, which respondents from all professional groups identified. Other recurrent themes include: the need to adapt to group restructurings and the possibility that a new recast may be too complicated (10% each); not modifying Articles 8 and 10 (7%), an inconsistent application or interpretation of the provisions of the EIR 2015 across Member States (7%) and a lack of a developed approach on issues regarding non-Member States.

When looking at the answers by type of respondents, no significant divergence appeared.

3.6 Overall Perceptions

Finally, respondents were asked to express their general impressions of the EIR 2015 across a series of key objectives. They rated seven statements on a five-point Likert scale (1 = "fully disagree", 5 = "fully agree"). The aggregated results are presented below (Table 2).

The EIR 2015	Average
provides **legal certainty**	3.90
provides **legal predictability**	3.82
addressed the **shortcomings** from the **EIR 2000**	3.68
strikes a **fair balance** between the **interests** of **various stakeholders**	3.60
works well in practice	3.56
is **sufficiently known** by **insolvency practitioners**	3.14
is **sufficiently known** by **judges**	3.03

Table 2 | Overall impressions

Overall, respondents agreed most strongly that the Regulation provides legal certainty and predictability, while expressing neutral views regarding the level of awareness among judges and insolvency practitioners. The average scores in these latter categories reflect moderate, rather than polarised, opinions: responses typically clustered between 2 and 4, with only a handful of extreme scores (three 1s and three 5s concerning judges' knowledge; two 1s and three 5s regarding practitioners' knowledge).

3.7 SWOT Summary

The SWOT analysis reveals several clear patterns: respondents value the EIR 2015's uniform framework and clarity, yet they identify persistent structural gaps, particularly in relation to group insolvencies, preventive restructuring frameworks, the scope of the Regulation, insolvency-related actions, Articles 8 and 10 EIR 2015, and matters regarding non-Member States. These same areas also surface as primary opportunities for improvement and, if unaddressed, as potential threats.

Overall, the results point suggest broad support for the EIR 2015. It seems to be perceived as a mature instrument that fulfils its original purpose by providing legal certainty in cross-border insolvencies. As such, no general overhaul seems required. Instead, the results point at targeted refinements to meet evolving challenges faced by the European cross-border restructuring and insolvency practice.

4. Selected topics

4.1 Introduction

The third part of the Survey examined a series of specific topics relating to the EIR 2015, covering most of its key provisions. These topics were selected for their particular relevance in the academic debate, in practical application, and in ongoing policy discussions within the EU.

Given the breadth of the Survey and the Regulation, this chapter concentrates on the issues identified by respondents as most significant in practice and the future development of the Regulation. The selected topics are:

i. COMI;
ii. Insolvency-related actions;
iii. Preventive restructuring frameworks;
iv. Exceptions to the *lex fori concursus*;
v. Insolvency registers;
vi. Cooperation and communication;
vii. Secondary proceedings; and
viii. Group coordination proceedings.

Different methodological approaches have been applied to each topic. These are described within the relevant subsections.

4.2 COMI

This section received responses from 50 respondents. It was assessed by way of a multiple-choice question that asked respondents to select the provisions of international jurisdiction (Articles 3-6 EIR 2015) that had been discussed in literature or practice in their primary jurisdiction or, alternatively, to indicate that they were unaware of any discussions, experiences and/or amendments proposed. An accompanying open-text field invited respondents to reference relevant cases, papers, or reform proposals on the selected matters.

Almost half of the respondents (24) selected international jurisdiction (Article 3 EIR 2015) as a key issue in their primary jurisdiction. The open-text contributions highlighted in more detail the way in which international jurisdiction has been an issue, with the following items having been mentioned:

- The need for a more flexible approach to COMI;
- The (lack of a) relationship between COMI and a company's real seat; and
- Issues relating to international jurisdiction for groups of companies (in relation to Chapter V).

A related question asked respondents to assess the effectiveness of Article 3 EIR 2015 in preventing cases of *mala fide* forum shopping. Of the 35 responses received, 40% considered that the EIR 2015 was generally effective in preventing abusive forum shopping, 49% felt neutral about its effectiveness, and only 11% considered it ineffective.

Quantitatively, Article 3 EIR 2015 received an average rating of 3.24 (on a five-point Likert scale), reflecting a generally positive perception toward the rules on international

jurisdiction. Surprisingly, the overall effect of this Article as a whole was perceived better than the response generated by its presumptions concerning where COMI is deemed to be found. For legal persons, it averaged a 3.09 (with 34 responses); for individuals with professional or business activity, it scored a 3.07 average (with 30 responses); and for individuals with no professional or business activity the average amounted to 3.14 (with 28 responses).

In conclusion, respondents expressed generally moderate satisfaction with the current jurisdictional framework of the EIR 2015. They also suggested further considering selected aspects, notably the flexibility for finding COMI and the determination of COMI in group settings.

4.3 Insolvency-related actions

Almost half of the respondents who responded to the prior section on jurisdictional issues (23) selected insolvency-related actions (Article 6 EIR 2015) as a topic that requires further discussion. The same number of respondents (23 out of 38 respondents) indicated in the specific question dedicated to Article 6 that jurisdiction for insolvency-related actions had resulted in debate in their primary jurisdiction.

Overall, respondents stressed the need for greater clarification regarding Article 6 EIR 2015. They called for a simpler approach than the one contained therein which leaves considerable room for interpretation and discussion. In this regard, 16 respondents provided detailed comments after indicating that the topic prompted particularly active debate in their primary jurisdiction. Most of these comments (11) referred to case law either from the Court of Justice of the European Union (CJEU),[3] or from national courts.[4]. The remaining contributions highlighted other issues with annex actions, such as interpreting the meaning of what are and are not "insolvency-related" actions, their relationship with capital maintenance rules and equity substitution, and whether a request for a declaratory ruling made by somebody who is not an insolvency practitioner, but which is closely linked to the insolvency proceedings, also qualifies as an annex action.

These results indicate that insolvency-related actions remain one of the more complex and debated topics of the EIR 2015, and, more generally, insolvency law. Similar findings were pointed out by CERIL in the CERIL Report 2021-1 on identifying annex actions under Article 6(1) of the European Insolvency Regulation 2015.

4.4 Preventive Restructuring Frameworks

The scope of the EIR 2015, particularly regarding pre-insolvency and preventive-restructuring proceedings, also emerged as a key topic in the Survey. This section comprised three questions. The first asked whether the proceedings introduced in the transposition of

[3] For instance. CJEU 23 January 2025, C-41/25, C/2025/2356 (*Orsay*).

[4] Reference was made to cases such as VSRS Sklep III Ips 23/2021 in Slovenia or RP202403\92325/23.8T8VNG.P1 in Portugal.

the Preventive Restructuring Directive (Directive (EU) 2019/1023)[5] in each Member State fulfilled the criteria to be included within the scope of the EIR 2015.

The findings of this section are of particular interest. Respondents from three Member States (Estonia, Ireland and Slovenia) noted that all their newly introduced proceedings were eligible for inclusion in Annex A of the EIR 2015, while respondents from 10 other jurisdictions noted that only some of their newly introduced proceedings were susceptible to being included (Austria, Belgium, Czechia, France, Hungary, Italy, the Netherlands, Portugal, Spain and Sweden). We will continue by discussing successively the Survey results for both the proceedings that are eligible and non-eligible for addition to Annex A.

The above-described responses reveal a significant trend in the majority of Member States surveyed to introduce restructuring frameworks that fall outside the scope of the EIR 2015. This seems contrary to the objective of the recast to the EIR of 2015, which aimed to broaden its scope to better facilitate restructuring.[6] This finding, in turn, could therefore be interpreted as a sign that the Regulation does not fully accommodate the characteristics of preventive restructuring frameworks, thereby raising questions about how to reform the Regulation, were it to be considered that preventive restructuring should continue to be covered by it.

Eligible proceedings

Respondents who answered that "all" or "some" of their (new) preventive restructuring proceedings fall within the scope of the EIR 2015 were subsequently asked whether their primary jurisdiction had requested the inclusion of all those eligible proceedings in Annex A of the EIR 2015, and whether these had already been added. For most new proceedings, the latter issue has already been addressed since Annex A has recently been amended by Regulation (EU) 2025/2073.[7]

Conflicting responses were received for five Member States: Germany, the Netherlands, Portugal, Poland, and Greece. These discrepancies may signal different interpretations of the question on "preventive restructuring frameworks" or differences in understanding the scope of the EIR 2015. Where conflicting data was received, relevant national experts were consulted for clarification. The following table presents the consolidated results (Table 3):

[5] Directive (EU) 2019/1023 of the European Parliament and of the Council on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency), OJ L 2019, 172.

[6] See Recitals 10 and 11 EIR 2015.

[7] Regulation (EU) 2025/2073 of the European Parliament and of the Council of 8 October 2025 amending Regulation (EU) 2015/848 on insolvency proceedings to replace its Annexes A and B, which added new proceedings or insolvency practitioners for Belgium, Bulgaria, Czechia, Estonia, France, Italy, Luxemburg, Malta, Slovakia, and Spain.

Question	Response: "all of them"	Response: "only some"
Has your primary jurisdiction requested that all these eligible proceedings introduced in the transposition of the PRD 2019 be added to Annex A of the EIR 2015?	Estonia Germany Greece Ireland Poland Portugal Slovenia Spain Sweden	Austria Belgium Hungary Italy

Table 3 | PRF and the EIR 2015

Non-eligible proceedings

Where respondents reported that certain preventive restructuring proceedings were not eligible for inclusion, the most commonly cited reason was the introduction of confidential (i.e. non-public) procedures. This was noted in Austria, Belgium, Germany, the Netherlands, and Spain.

Respondents from Austria and Germany explicitly indicated that the confidentiality of these proceedings was a deliberate legislative choice, aimed at avoiding the application of the EIR 2015. They also noted that the EIR 2015's framework was viewed as insufficiently suited to these proceedings.

Conclusion

Taken together, the results show a great divergence in the practice of Member States when it comes to preventive restructuring frameworks. While some Member States have opted to integrate their (new) proceedings within the Regulation, others have opted to introduce proceedings that remain outside its scope. Notably, several Member States opted for this, despite the uncertainty it may entail with the recognition and enforcement of these proceedings in other Member States.

Accordingly, these findings point to a need for further clarification or amendment of the EIR 2015 with regard to pre-insolvency proceedings. This conclusion is consistent with other observations made in this Report, see, for instance, the SWOT analysis (Section 3), and also – as will be later discussed – Section 4.5 on the lex fori concursus and its exceptions. Concerns on how to deal with the PIL aspects of restructuring proceedings was signalled also in a prior CERIL Statement, in particular, CERIL Statement 2022-2 on Cross-Border Effects in European Preventive Restructuring.

4.5 Lex fori concursus and exceptions to it

Lex fori concursus

When asked about issues regarding the application of the lex fori concursus, the majority of respondents (19 out of 32) indicated no discussions in their primary jurisdiction. Out of those who signalled that there are existing discussions, the topics did not generally hinge on the application of the lex fori itself. Rather, they related to the relationship of the lex fori

concursus with rules existing in other jurisdictions (e.g. the Rule in *Gibbs*) or other rules of the EIR 2015, particularly, exceptions to the lex fori concursus.

This indicates that, overall, respondents view the general application of the lex fori concursus as a relatively stable and uncontroversial part of the EIR 2015.

Exceptions to the lex fori concursus

The situation greatly changed when enquired about the exceptions to the lex fori concursus. Out of 32 respondents, only 12 indicated that there had been no discussions or proposed amendments in their jurisdictions.

The remaining responses (20) revealed a large range of items that created discussion in their own jurisdictions. The majority of discussions centred on third parties' rights in rem as laid down in Article 8 EIR 2015 (11 respondents; Germany, Greece, Hungary, the Netherlands, Portugal, Spain, and the UK). Several respondents observed that this remains a frequent topic of discussion in practice. One respondent also referred to UNCITRAL's ongoing work in this area, and another mentioned issues regarding the relationship of Article 8 EIR 2015 with the applicability of automatic stays.

Detrimental acts (Article 18 EIR 2015) are another topic that was more often mentioned, by 6 respondents from Austria, Germany, Greece, the Netherlands, Slovenia and Sweden. Commentaries on this issue referred to the interpretation of "any means of challenging" and referred to a few national cases.[8]

Other less frequently mentioned exceptions (with less elaboration) included:

- Contracts relating to immoveable property (Article 11 EIR 2015).[9]
- Payment systems and financial markets (Article 12 EIR 2015).
- The effects of insolvency proceedings on pending lawsuits or arbitral proceedings (Article 18 EIR 2015).
- Contracts of employment (Article 13 EIR 2015) and protection of third-party purchasers (Article 17 EIR 2015) were both highlighted by a respondent from the UK

Taken together, all these responses suggest that while the application of the lex fori concursus remains well accepted, several exceptions, in particular, those relating to rights in rem and detrimental acts give rise to uncertainty and ought to be further discussed when the Regulation is further reviewed.

4.6 Insolvency registers

Respondents were also asked to evaluate the effectiveness of insolvency registers in their primary jurisdiction by way of a "yes" or "no" question. Of the 35 respondents who addressed this question, only five considered that the insolvency register of their primary jurisdiction was ineffective. These respondents were from Estonia, Ireland, Spain, Portugal

[8] Reference was made to cases such as VSM Sklep I Cp 8/2021 in Slovenia and by German respondents it was mentioned that Article 18 EIR has been used in various court decisions, including by the German Bundes Gerichtshof.

[9] This was referred to by a respondent from the UK, drawing on a recent judgement from the UK Supreme Court: Kireeva v Bedzhamov [2024] UKSC 39, available at: https://supremecourt.uk/cases/judgments/uksc-2022-0037.

and the UK. This suggests that, overall, respondents from the sampled Member States are largely satisfied with the functioning of their national insolvency registers. While individual technical or accessibility issues may persist, the general perception is that domestic systems operate adequately for their intended purpose.

The picture changes when attention turns to the EU system of interconnected insolvency registers (Articles 25-27 and 87 EIR 2015). When asked about the effectiveness of this system in providing timely and relevant information on insolvency proceedings across Member States, 26 respondents provided answers to this "yes" or "no" question. Approximately two-thirds replied negatively, indicating several limitations to the current system. These limitations included:

- Language barriers, as national registers are available only in local languages;
- Lack of interconnection and searchability of the registers (to date, not all insolvency registers from the Member States are searchable through the EU interconnected register);
- Registers not being consistently updated; and
- Incomplete coverage, as registers only include proceedings in EU Member States and the EU system limits itself to those proceedings that have been added to Annex A of the Regulation.

In summary, respondents expressed broad confidence in their national insolvency registers but were much less satisfied with the EU system of interconnected registers. The challenges identified undermine the system's intended purpose of facilitating transparency and cooperation in cross-border cases. In addition, they indicate that its operation should be further discussed when reviewing the Regulation.

4.7 Cooperation and communication

The Survey also explored the extent to which cooperation and communication among insolvency practitioners ("IPs") and judges have improved under the EIR 2015. To evaluate this, respondents were provided with a table containing four statements and were asked to indicate for which actors they considered them to be true: "among judges", "among insolvency practitioners" and "between judges and insolvency practitioners (and vice versa)".

Improvements of the EIR 2015

A total of 27 respondents answered the question as to whether cooperation has improved under the EIR 2015. Almost half agree that cooperation and communication have improved between judges and IPs, as well as among IPs themselves. This result contrasts with the earlier findings of the Survey (the preliminary analysis that was conducted in May 2025), in which the most frequent improvement was cooperation among IPs. This shift is noteworthy given that, in the final responses, only one new participant was a practitioner.

Lastly, both the preliminary results and the final results confirm that the EIR 2015's provisions have contributed limitedly to the enhancement of cooperation and communication among judges. Only two respondents expressed the view that this new duty introduced in the EIR 2015 had improved such cooperation and communication.

Sufficient knowledge

A total of 25 respondents answered the question as to whether there is sufficient knowledge of the duty to cooperate and communicate. Thirteen respondents (just over half) agreed that IPs possess sufficient knowledge of this duty, and nine respondents considered that knowledge about such a duty exists as between IPs and judges. As mentioned above, almost no respondents believe that there was sufficient knowledge among judges, only three believed so. This suggests that awareness of the cooperation duty is strongest among IPs and remains more limited within the judiciary, especially in their duty to cooperate and communicate with IPs.

Insufficient provisions

Respondents were subsequently asked whether the Regulation's provisions are insufficient to foster cooperation and communication among the different groups. Eighteen respondents provided answers. More than 60% deemed the provisions insufficient to foster cooperation among judges, while 33% believed this was the case between judges and IPs. There appeared to be a few concerns regarding the cooperation among insolvency practitioners, with 2 respondents raising such concerns. These findings are consistent with those of the two previous questions.

Need for additional rules

When asked about whether a future recast of the Regulation ought to include additional rules to allow for effective cooperation and communication, 25 respondents replied. A clear majority (68%) supported the inclusion of further rules relating to cooperation and communication between judges and IPs, followed by a 24% advocating for additional provisions regarding cooperation and communication among judges. Lastly, only two respondents considered that additional provisions were required among IPs. This seems to indicate that the current provisions on cooperation and communication among IPs are sufficient, whereas there exists room to further cooperation and communication by and with judges.

Suggestions for amendment

Respondents were also invited to advance concrete proposals for reform. Two topics were repeated by several respondents: promoting judicial training and exchange of best practices (suggested by three respondents) and allowing for cooperation and communication with non-Member States (two respondents).

Other individual proposals included:

- Establishing an EU-wide secure digital platform for communication between courts and IPs;
- Introducing sanctions for non-cooperation in cross-border cases;
- Including a clearer provision defining the limits of cooperation and communication;
- Facilitating direct channels for contacting courts in cross-border proceedings;
- Revisiting the jurisdictional grounds;
- Providing for cross-border supervision by national authorities over IPs; and
- Addressing asset-tracing in asset-less cases.

Conclusions

From these results, it follows that the majority of respondents consider that the EIR 2015 has improved cooperation and communication among IPs, who appear to have sufficient knowledge on their duty to cooperate and communicate, and that the Regulation's provisions allow for adequate cooperation and communication among them. This is also reflected in the small number of respondents who believed additional rules were needed to effectively allow cooperation and communication among IPs.

By contrast, cooperation and communication among judges is not generally deemed to have sufficiently improved with the EIR 2015, including their knowledge on these duties. This is consistent with the majority view that the Regulation's provisions are insufficient to foster cooperation and communication between judges. Interestingly, however, few respondents advocated for additional rules that allow to effectively cooperate and communicate among judges. This may indicate low confidence in judicial cooperation mechanisms or uncertainty about the EIR's capacity to address them, so it should be further discussed in the review of the EIR 2015.

Finally, a large number of respondents noted improvements in cooperation and communication between judges and IPs with the EIR 2015. Still, relatively few respondents considered the knowledge about this duty to cooperate to be sufficient. Despite only a small number of respondents describing the current provisions as insufficient, a large majority nonetheless called for new rules to make cooperation between these actors more effective, so this topic ought also to be explored more in depth.

4.8 Territorial proceedings

Another key topic that emerged from the Survey are territorial proceedings (including secondary insolvency proceedings). Respondents were provided with a table containing six different statements and were asked to indicate by way of a binary answer ("yes" or "no"), whether they agreed with each of them. The statements are reproduced below:

i. Territorial proceedings contribute to a better handling of cross-border insolvencies;
ii. Territorial proceedings are frequently opened at the request of domestic creditors;
iii. Territorial proceedings are frequently opened at the request of insolvency practitioners;
iv. Territorial proceedings hinder effective restructuring proceedings;
v. Territorial proceedings should be barred in restructuring proceedings; and
vi. Undertakings (Article 36 EIR 2015) are currently useful in preventing the opening of secondary proceedings.

The majority of respondents (approximately 60%) considered that territorial proceedings contribute to a better handling of cross-border insolvencies. There also appears to be broad agreement that these proceedings are most often initiated at the request of domestic creditors (around 66% of respondents), while request for opening territorial proceedings by main insolvency practitioners were regarded as infrequent (only 6 out of 27 respondents answered "yes" to this question).

The views were more divided on the interaction between territorial proceedings and restructuring proceedings. About 54% of the respondents agreed that territorial proceedings hinder effective restructurings, but 65.5% nonetheless believed that such proceedings should not be barred when restructurings are taking place. This suggests that respondents recognise potential obstacles that are created by territorial proceedings. However, they do not view them as categorically incompatible with restructuring proceedings. One possible explanation lies in the use of undertakings under Article 36 EIR 2015, which a majority of respondents (14 out of 25) found in principle useful in preventing the opening of secondary proceedings. These mechanisms may, when used in practice, mitigate the perceived negative effects of territorial proceedings, reducing the need to prohibit them outright.

Overall, the findings indicate that territorial proceedings, particularly in relation to restructuring proceedings, and the effectiveness of Article 36 EIR 2015 are central themes for future discussions regarding the recast of the Regulation.

4.9 Group coordination proceedings

Group coordination proceedings emerged as the key topic for future reform, as was already apparent from the results of the SWOT analysis (Chapter 3). Respondents were asked whether group coordination proceedings under the EIR 2015 have ever been used in their primary jurisdiction. Depending on their response, they were either invited to provide details of the case (if they had answered "yes") or to explain what factors hindered the application of the Regulation's group coordination provisions and how these might be improved – via an open-box.

A total of 33 respondents answered this question. All but one (an outlier respondent who provided no additional information) stated that group coordination proceedings have not been used in their primary jurisdiction. The responses covered the UK and 14 Member States, namely: Austria, Belgium, Czechia, Germany, Greece, Hungary, Ireland, Italy, the Netherlands, Poland, Portugal, Slovenia, Spain, and Sweden.

When asked about the reasons for the non-existent use of these proceedings, complexity of the provisions was the most frequently cited one, mentioned by nine respondents (from Belgium, Germany, Greece, Hungary, Italy, the Netherlands, Spain and the UK). This was followed by the lack of functioning in practice and the high costs associated with group coordination proceedings as envisaged under the Regulation, according to 24% of the respondents (from Austria, Belgium, Germany, the Netherlands, Spain and the UK).

Other views of why group coordination proceedings are not used included:

- Non-binding nature of the group coordination plan;
- Perceived lack of need for such proceedings;
- Uncertainty associated with group coordination proceedings;
- Practitioners are already accustomed to managing group cases with different mechanisms;
- Risk of divergent outcomes;
- Loss of control over proceedings; and
- Administrative burdens.

The responses provide a clearer picture of the lack of practical impact of group coordination proceedings under the EIR 2015. Despite their ambitious objective to better deal with the

insolvency of groups of companies, the provisions are perceived as overly complex, procedurally burdensome, and insufficiently (cost-)effective to justify their use.

These findings strongly suggest that group coordination proceedings should be a crucial point of focus in the upcoming recast of the EIR 2015. Any reform effort will need to consider whether the mechanism can be simplified, made more cost-effective, and endowed with clearer legal effects, or whether alternative coordination models should be explored. See for an earlier in-depth analysis of group coordination proceedings, also reporting the absence of any group coordination proceedings under the EIR 2015, the CERIL Statement 2021-2 on EU group coordination proceedings and its Annex report.

5. Final observations

In the final section of the Survey, respondents were invited to evaluate the overall effectiveness of the Regulation as well as the need for amendments. Overall, the Survey indicates broad satisfaction with the functioning of the EIR 2015 in practice. A total of 36 respondents rated the Regulation's overall effectiveness, with the largest majority (72%) agreeing it functions rather well in practice and only specific amendments are necessary. Only 19% of the respondents considered that serious amendments are required, while a single participant called for a complete overhaul and two respondents advocated for no changes. These findings reflect a general consensus that, although the EIR 2015 largely achieves its objectives, several areas merit targeted revision or clarification.

The respondents were also asked to suggest (further) topics for any amendment of the EIR 2015. These responses were diverse but largely aligned with the findings presented in the previous chapters of this Report. Among others, the following suggestions with more specific answers were made:

i. Group coordination proceedings: the respondents agreed on the need to reform the current group coordination proceedings, though their specific proposals varied. The suggestions included deleting group coordination proceedings from the Regulation, allowing for the restructuring of groups of companies within just one jurisdiction, permitting the application of the law of another Member State where appropriate and introducing a "group COMI".

ii. Preventive restructuring frameworks: the proposed changes include revising the general framework applicable to these proceedings, extending the Regulation's scope to include confidential proceedings, and clarifying the interplay between preventive restructurings and other EU instruments, such as the Brussels I Recast Regulation.

iii. Non-Member States: Several respondents underlined the need to introduce rules with respect to non-Member States. It was suggested to include (clearer) rules governing cooperation and communication with non-Member States, as well as rules dealing with recognition and enforcement in cases involving non-Member States.

Furthermore, some individual suggestions were made to amend the current provisions of the EIR 2015. Although not reported by many respondents, these suggests make clear suggestions for further consideration. These included: better specifying what insolvency-related actions are, simplifying Article 36 EIR 2015 on undertakings to avoid the opening of secondary insolvency proceedings, and better incorporation of the debtor in possession (DIP) in the governance in the EIR 2015, including the rights of DIPs in cross-border insolvency proceedings. In addition, it was suggested to include procedural rules to plan post-recognition steps, as well as to update the definitions of the EIR 2015 to accommodate digital assets.

Taken together, these suggestions reflect a measured approach to the future reform of the EIR 2015. Respondents did not generally call for a fundamental overhaul, but rather for targeted adjustments to improve coherence, efficiency, and cross-border coordination. The suggestions range from clarifying technical provisions to aligning the Regulation with newer restructuring and cooperation practices and highlight the need for a modernised yet stable framework capable of accommodating the continued evolution of European insolvency law.

6. Conclusion

Ten years after its adoption, this study presents the results of a SWOT analysis and substantive evaluation of the function of the EIR 2015. The results show that the EU framework for cross-border insolvency law, as established by the EIR 2000 and recast by the EIR 2015, has broad support among practitioners, judges and academics in the EU. The Regulation provides an important framework for PIL matters of insolvency cases, including jurisdiction, the automatic recognition and enforcement, as well as the basis for facilitating cooperation and communication. This has laid down an important basis for legal certainty and predictability in cross-border insolvency cases.

The Survey results suggest that the shared common rules across the EU (except for Denmark) of the Regulation provide a generally effective and efficient mechanism to deal with cross-border cases. There is strong support for leaving this framework in place and avoiding a substantive overhaul of the Regulation following the upcoming evaluation by the Commission.

This is not to say that there are no areas for improvement or amendment of the Regulation. The respondents to the Survey have indicated several areas where the Regulation is not yet functioning optimally, or where new(er) developments have not been adequately addressed by it. To strengthen the functioning of the Regulation, this Report proposes several areas for amendment. The results of this study therefore provide an agenda with key-topics for further substantive examination:

i. COMI: several respondents suggest that the current rigidity of the COMI should be reconsidered. This relates to the possible misalignment between where COMI is to be found and the real seat of a debtor, due in particular to the suspect periods related to the COMI presumptions, and also the current absence of a group COMI for dealing effectively with groups of companies;

ii. Group insolvencies: the findings of the Survey clearly show that the rules on group coordination proceedings remain thus far unused and must be further discussed, since the provisions are perceived as overly complex, procedurally burdensome, and insufficiently (cost-)effective to justify their use. Future reform must consider whether the mechanism can be simplified, made more cost-effective, and endowed with clearer legal effects, or whether alternative coordination models should be explored;

iii. Preventive restructuring frameworks: the findings in several sections of this Report show a great divergence in the practice of Member States when it comes to preventive restructuring frameworks. While some Member States have opted to integrate all their new proceedings within the EIR 2015, others have opted (explicitly or implicitly) for some proceedings to remain outside its scope, despite the uncertainty this may entail with respect to their recognition and enforcement in other Member States. These findings point to a need for further clarification or amendment of the EIR 2015 with regard to pre-insolvency regimes, in particular, whether it may be desirable to include confidential restructuring procedures within the scope of the Regulation and/or articulate better rules tailored to restructuring proceedings;

iv. **Interaction with other EU instruments**: the findings show that overlaps and boundaries with other instruments, in particular with the Brussels I Recast Regulation, are to be further explored. This was raised especially concerning jurisdiction in restructuring and annex actions, since the current approach is held to give risen to too much uncertainty;

v. **Exceptions to the lex fori concursus**: several of the exceptions to the lex fori concursus, in particular those relating to rights *in rem* and retention of title, must be subject to further review. The respondents seemed to indicate that the exceptions on *in rem* rights and retention of title hinder effective cross border restructurings and are therefore a topic that deserves particular attention;

vi. **Territorial proceedings**: the findings of the Survey show that further attention must be paid to the use of territorial (including secondary) proceedings in restructuring proceedings, which divided the respondents. In relation to these proceedings, the use of undertakings under Article 36 EIR 2015, ought to also be further revisited, because, while they have been deemed useful, they are not yet generally employed in practice;

vii. **Cooperation and communication among judges and IPs**: the provisions involving cooperation with judges deserve additional attention. They have been perceived as insufficient to ensure their effective and efficient cooperation in cross-border insolvency cases;

viii. **Insolvency registers**: several limitations to the EU system of interconnected insolvency registries need to be addressed to make it function in an effective and timely way. These amendments include addressing language barriers, incomplete interconnection and searchability of national registers, the absence of consistent updates and their usability by practitioners; and

ix. **Non-Member States**: Various respondents underscored the need to consider the introduction of provisions in the EIR 2015 dealing with non-Member States on manifold aspects such as recognition and enforcement of insolvency proceedings opened in non-Member States, as well as cooperation and communication with practitioners and judges from such jurisdictions.

Lastly, it must be noted that future reforms will also depend on the outcome of the European Commission's Proposal for a Directive harmonising certain aspects of insolvency law. The proposed Directive may touch upon several cross-border aspects related to the EIR 2015.[10]

While the EIR 2015 is broadly supported, the issues identified in this Report provide a roadmap for the next phase of assessment of the EIR 2015. These areas for possible reform, have been prompted by experience with the EIR 2015 but also by recent developments in the restructuring and insolvency practice. However, any potential reform ought to bear in mind the Regulation's core purpose: the efficient and effective operation of cross-border insolvency and restructuring within the European Union.

[10] See, in this respect also CERIL Statement 2023-2 on the European Commission's Proposal for a Directive on Harmonising Certain Aspects of Insolvency Law. In November 2025 it was announced that the European Parliament and the Council have reached a provisional agreement on this Directive, see: https://www.consilium.europa.eu/en/press/press-releases/2025/11/19/insolvency-proceedings-council-and-european-parliament-agree-on-common-eu-rules/. A draft text of the position adopted by the Council at first reading has now been released and is available at: https://data.consilium.europa.eu/doc/document/ST-16459-2025-INIT/en/pdf.

Annex

Welcome!

The Conference on European Restructuring and Insolvency Law ('CERIL') is conducting this survey on the European Insolvency Regulation 2015/848 ('EIR 2015') for its upcoming CERIL Statement on the EIR 2015. Your insights are invaluable in assessing the (practical) functioning of the instrument.

To this end, we welcome responses across Europe, including both EU and non-EU experts. You are kindly asked to share your current experience, knowledge and views on the EIR 2015 as an instrument that aims to facilitate cross-border insolvency.

Purpose of the Survey

CERIL is conducting this survey to gather feedback and perspectives from relevant stakeholders, including its Conferees, Research Associates and other experts in the field. The survey serves a threefold purpose:

1. To identify and gather insights on the functioning of the EIR 2015 across Europe.
2. To inform and inspire discussions within CERIL.
3. To provide a foundation for a forthcoming CERIL Statement, and for further discussions in view of the upcoming review of the EIR 2015.

Your responses will be processed anonymously. You may choose to answer only those questions more closely aligned with your area of interest and/or expertise. Likewise, you may stop at any point and resume any time before the deadline. By sharing your experiences and insights, you will contribute to a better understanding of the successes, challenges, and potential areas for improvement.

The full survey takes approximately 10 minutes to complete. It will close on 4 October at 23:45 CEST.

Thank you for your time and contributions.

CERIL
Reinout Vriesendorp, Gert-Jan Boon
Jaime Vázquez García, WP 11 Research Associate

This Survey has been prepared by Working Party 11 "Matters regarding the European Insolvency Regulation 2015".

Please click on the arrow below to start the survey

PART I: GENERAL QUESTIONS

1. What is your (primary) jurisdiction

[To be selected from a list including most jurisdictions in the world]

2. What is your profession?

- o Academic.
- o Practitioner.

- Judge.
- Other [ ]

3. What is your involvement with CERIL? (if applicable)
- Academic Conferee.
- Ordinary Conferee.
- Judicial Conferee.
- Research Associate.
- N/A.

4. Please, select the range that best represents your years of experience with cross border insolvency.
- 0-5 years.
- 5-10 years.
- 10-15 years.
- 15-20 years.
- +20 years.

PART II: WHAT WORKS, WHAT DOES NOT AND HOW IT COULD BE IMPROVED

This second part starts with four open questions. Based on your experience and knowledge of the EIR 2015, they aim to identify its strengths, weaknesses, opportunities and threats.

Please, take a moment to think of each question and briefly describe your views.

What do you consider key strength(s) of the EIR 2015 (i.e. characteristics/rules that give it an advantage over others)? Which of these should be maintained?
[ ]

What do you consider key weakness(es) of the EIR 2015 (i.e. characteristics/rules that place it at a disadvantage relative to others)? Which of these should be amended?
[ ]

What do you consider an opportunity (or opportunities) for the EIR 2015 (i.e. potential benefits, improvements, or positive developments that the EIR 2015 or its revision could bring)? How could such an opportunity be dealt with by a (revised) EIR?
[ ]

What do you consider a threat (or threats) for the EIR 2015 (i.e. risks, challenges, or negative consequences that could arise for the EIR 2015 or its revision)? How could such a threat be dealt with by a (revised) EIR?
[ ]

On a scale from 1 (fully disagree) to 5 (fully agree), please, rate the following statements:
1. The EIR 2015 provides legal certainty.
2. The EIR 2015 provides legal predictability.
3. The EIR 2015 addressed the shortcomings from the EIR 2000.
4. The EIR 2015 is sufficiently known by judges.
5. The EIR 2015 is sufficiently known by insolvency practitioners.
6. The EIR 2015 works well in practice.

7. The EIR 2015 strikes a fair balance between the interests of various stakeholders.

Please, leave any further comments to the statements above here:
[ ]

PART III: SPECIFIC QUESTIONS

This is the third part of the survey. It deals with selected topics of the EIR 2015 and should be completed based on your existing knowledge and/or experience (i.e. no additional research is needed). Please, answer those questions that you feel comfortable with, and feel free to skip any others.

International Jurisdiction (Articles 3-6)

Have there been any discussions in literature or practice in your primary jurisdiction with regard to international jurisdiction (Articles 3-6)? Please, select all the applicable answers.

- o International Jurisdiction (Art 3).
- o Examination as to jurisdiction (Art 4).
- o Judicial review of the decision to open main insolvency proceedings (Art 5).
- o Jurisdiction for actions deriving directly from insolvency proceedings and closely linked with them (Art 6).
- o No discussions, experiences and/or amendments proposed.

If so, has amendment of these provisions been raised or is it currently being discussed? Please, briefly indicate the relevant articles, and, if applicable, any proposals.
[ ]

Scope

Please, select which of the following statements best describes your primary jurisdiction's current situation with regard to the proceedings introduced or amended by the transposition of the Preventive Restructuring Directive (Directive 2019/1023) ("PRD 2019"):

- o All of these proceedings fulfil the criteria to be added to Annex A.
- o Only some of these proceedings fulfil the criteria to be added to Annex A.
- o None of these proceedings fulfil the criteria to be added to Annex A.

If Please select which of the following statements best describes your primary jurisdiction's curre... All of these proceedings fulfil the criteria to be added to Annex A. Is Selected Or Please, select which of the following statements best describes your primary jurisdiction's curre... Only some of these proceedings fulfil the criteria to be added to Annex A. Is Selected[11]

Please, indicate:

Has your primary jurisdiction requested that all these eligible proceedings introduced in the transposition of the PRD 2019 be added to Annex A of the EIR 2015?

- o Yes, all of them.

[11] Disclaimer: Questions presented in italics are conditional questions. These items were only shown to respondents who selected particular answers in a previous question. As a result, not all participants received or responded to every italicized question. This approach ensures that follow-up questions are tailored to the respondent's earlier responses and may affect the number of responses for those items.

- Yes, but only some.
- No.

Have all these eligible preventive restructuring proceedings introduced in the transposition of the PRD 2019 been already added to Annex A

- Yes, all of them.
- Yes, but only some.
- No.

If Please select which of the following statements best describes your primary jurisdiction's curre... None of these proceedings fulfil the criteria to be added to Annex A. Is Selected Or Please, select which of the following statements best describes your primary jurisdiction's curre... Only some of these proceedings fulfil the criteria to be added to Annex A. Is Selected

Please indicate:

If some or none of the proceedings introduced in the transposition of the PRD 2019 meet the criteria to be added to Annex A of the EIR 2015, are there any specific reasons why the legislator chose this?
[ ]

Have courts held that these proceedings to fall within the scope of any other EU instrument (e.g. the Brussels I bis Regulation?)
[ ]

Forum shopping (Article 3)

In your view, how effective on a scale from 1 (highly ineffective) to 5 (highly effective) is the 2015 EIR in preventing mala fide forum shopping:

1. In general (Article 3).
2. With the 3-month suspect period of COMI shifts by legal persons (Article 3(1), para II).
3. With the 3-month suspect period of COMI shifts by individuals exercising an independent business or professional activity (Article 3(1), para III).
4. The 6-month period presumption for COMI shifts by "other individuals" (Article 3(1), para IV).

Insolvency-related (Article 6)

The EIR 2015 introduced a provision on insolvency-related actions (also known as "annex actions") based on the Gourdain formula. It applies to an "action which derives directly from the insolvency proceedings and is closely linked with them" (Article 6). Have there been any discussions in literature or practice in your primary jurisdiction with regard to jurisdiction for insolvency-related actions (Article 6)? If yes, please, specify the name of the case(s) or what the discussions entailed.

- Yes. [ ]
- No.

Applicable law (Articles 7-18)

Have there been any discussions in literature or practice in your primary jurisdiction with regard to the determination of the applicable law (Article 7)? If yes, please, specify.

- Yes. [ ]
- No.

Have there been any discussions in literature or practice in your primary jurisdiction with regard to the exceptions to the application to the lex fori (Articles 8-18)? If yes, please, specify.

- Third parties' rights in rem (Art 8). [ ]
- Set-off (Art 9). [ ]
- Reservation of title (Art 10). [ ]
- Contracts relating to immoveable property (Art 11). [ ]
- Payment systems and financial markets (Art 12). [ ]
- Contracts of employment (Art 13). [ ]
- Effects on rights subject to registration (Art 14). [ ]
- European patents with unitary effect and Community trade marks (Art 15). [ ]
- Detrimental acts (Art 16). [ ]
- Protection of third-party purchasers (Art 17). [ ]
- Effects of insolvency proceedings on pending lawsuits or arbitral proceedings (Art 18). [ ]
- No discussions, experiences and/or amendments proposed.

Recognition and enforcement (Articles 19-23 and 31-33)

Are there any discussions in literature or practice in your primary jurisdiction with regard to recognition and its effects under the EIR 2015 (Chapter II, Articles 19-23 and 31-33)?
[ ]

Insolvency registers (Articles 24-27)

Does your jurisdiction have an effective insolvency register in place?

- Yes.
- No.

In your view, is the system of EU interconnected insolvency registries effective in providing timely and relevant information on insolvency proceedings across Member States? Please specify your answer.

- Yes. [ ]
- No. [ ]

Cooperation and communication (Articles 41-44 and 56-59)

Regarding cooperation and communication between judges, insolvency practitioners and among them, please, select for whom you consider the following to be true in cross-border insolvency cases:

1. Cooperation has **improved** under the EIR 2015.
2. There exists **sufficient knowledge** on the **duty** to cooperate and communicate.
3. The EIR 2015's **provisions are insufficient** to foster cooperation and communication.

4. The new recast of the EIR 2015 should include **additional rules** to effectively cooperate and communicate.

Please, indicate any potential amendments to the EIR 2015's provisions on cooperation and communication that you consider necessary
[ ]

Secondary proceedings (Articles 34-52)

With regard to the use of territorial proceedings, please, indicate if you agree with the following statements:

1. Territorial proceedings contribute to a **better handling** of cross-border insolvencies.
2. Territorial proceedings are frequently opened at the **request of domestic creditors**.
3. Territorial proceedings are frequently opened at the r**equest of insolvency practitioners**.
4. Territorial proceedings **hinder** effective restructuring proceedings.
5. Territorial proceedings should be **barred in restructuring proceedings**.
6. **Undertakings** (Article 36 EIR 2015) are currently useful in preventing the opening of secondary proceedings

Information for creditors and lodgement of claims (Articles 53-55)

Does your jurisdiction have effective provisions of information for creditors and lodgement of their claims in place?

- Yes. [ ]
- No. [ ]

In your view, is the procedure for lodging claims in your primary jurisdiction effective and practical? Please, specify your answer.

- Yes. [ ]
- No. [ ]

Group coordination proceedings (Articles 61-77)

With regard to group coordination proceedings, please, indicate: Have the EIR 2015's provisions on group coordination been used in your primary jurisdiction?

- Yes.
- No.

If With regard to group coordination proceedings, please, indicate: Have the EIR 2015's provisions o... Yes Is Selected

If you responded "Yes" (i.e. group coordination proceedings have been used in your primary jurisdiction): Please provide further details of the case(s) (i.e. the name and/or an ECLI number of the case)
[ ]

If With regard to group coordination proceedings, please, indicate: Have the EIR 2015's provisions o... No Is Selected

If you responded "No" (i.e. group coordination proceedings have not been used in your primary jurisdiction), please clarify: in your opinion, what is hindering the application of the group coordination rules of the EIR 2015? How could this be amended?
[ ]

Data protection (Articles 78-83)

Have there been any discussions or experiences on any conflicts between the application of the EIR 2015's rules on data protection (Chapter VI, Articles 78-83) and the GDPR (Regulation (EU) 2016/679)?

- Yes. [ ]
- No.

Have you encountered any practical applications of AI in insolvency-related proceedings in your primary jurisdiction? If yes, which?

- Yes. [ ]
- No.

PART IV: CONCLUDING QUESTIONS

Overall, if you had to rate the effectiveness of the EIR 2015, how would you assess the instrument in its entirety?

- Very good, no amendments needed.
- Rather good, minor amendments necessary (please indicate which provisions or topics). [ ].
- Serious amendments are needed. [ ].
- A complete overhaul is needed. [ ].

Are there other matters that CERIL should consider in its Statement to the Commission on the EIR 2015 reform? Is there anything else that you would like to share with us?

If you do not mind that we might contact you if questions arise regarding your responses (i.e. for references to case law or suggestions for amendment of the EIR 2015), please, leave your email address here.
[ ]

By clicking on the button below you will finish and send the survey.

We thank you for your time spent taking this survey.
Your response has been recorded

CERIL Conferees

EXECUTIVE

Chair
Prof. em. Reinout Vriesendorp
The Netherlands

Vice Chair
Prof. Ignacio Tirado
Spain

Secretary/Treasurer
Dr. Gert-Jan Boon
The Netherlands

Members
Mylène Boché-Robinet
France

Prof. Stephan Madaus
Germany

Prof. Paula Moffatt
United Kingdom

Prof. Elina Moustaira
Greece

Dr. Paul Omar
United Kingdom

Prof. Hon.-Prof. Dominik Skauradszun
Germany

Prof. The Hon Lady Sarah Wolffe
Scotland

Former CERIL Chair
Prof. em. Bob Wessels
The Netherlands
(2017-2023)

OTHER CONFEREES

Abbas Abbasov
Azerbaijan

Prof. Stefania Bariatti
Italy

Michal Barlowski
Poland

Prof. Oleksandr Biryukov
Ukraine

Prof. Reinhard Bork
Germany

Pavel Boulatov
Russia

Ieva Broka
Latvia

Kathlene Burke
United Kingdom

Barry Cahir
Ireland

Amanda Cohen
Spain

Giorgio Corno
Italy

Jenny Davidson
United Kingdom

Almira Delibegović-Broome
Scotland

Bart De Moor
Belgium

Dr. Miodrag Dordevic
Slovenia

Anja Droege Gagnier
France

Dr. Đuro Đurić
Serbia

Zoltan Fabok
Hungary

Dr. Juan Ferré
Spain

Dr. Patryk Filipiak
Poland

Prof. Catarina Frade
Portugal

Dr. Roel Fransis
Belgium

Dr. Arthur Galea Salomone
Malta

Dr. Jennifer Gant
United Kingdom

Prof. Jasnica Garašić
Croatia

Prof. Francisco Garcimartin
Spain

Prof. Andreas Geroldinger
Austria

Ernst Giese
Czechia

Rita Gismondi
Italy

Bartosz Groele
Poland

Dr. Shuai Guo
China

Marina) Hadjisoteriou
Cyprus

Frank Heemann
Lithuania

Ferdinand Hengst
The Netherlands

Dr. Jana Julia Hübler
Germany

Prof. Tuomas Hupli
Finland

Dr. Ivan Ikréyni
Slovakia

Dr. Marjolaine Jakob
Switzerland

Prof. Marie Karlsson-Tuula
Sweden

Dr. Ilya Kokorin
The Netherlands

Prof. Joanna Kruczalak-Jankowska
Poland

Dr. Line Langkjaer
Denmark

Prof. Antonio Leandro
Italy

Nathalie Leboucher
France

Prof. Tuula Linna
Finland

Dr. Pier Mario Lupino
Scotland

Prof. Irene Lynch Fannon
Ireland

Catarina Macchi
Italy

Prof. Carlos Mack-Castelletti
Italy

Dr. Myriam Mailly
France

Prof. Renato Mangano
Italy

Prof. Miguel Martínez Muñoz
Spain

Dr. Ángel Espiniella Menéndez
Spain

Prof. Irit Mevorach
United Kingdom

Prof. Göran Millqvist
Sweden

Grégory Minne
Luxembourg

Dr. Nicoleta Mirela Năstasie
Romania

Dr. Emmanuel Mastromanolis
Greece

Prof. Salvija Mulevičienė
Lithuania

Piet Neijt
The Netherlands

Prof. Rimvydas Norkus
Lithuania

Annemari Õunpuu
Estonia

Prof. Luciano Panzani
Italy

Dr. Gabriella Pataki
Hungary

Prof. em. Christoph Paulus
Germany

Prof. Annina Persson
Sweden

Stathis Potamitis
Greece

Prof. Juana Pulgar
Spain

The Hon. Mr Justice Michael Quinn
Ireland

Marko Radovic
Serbia

Dr. Tomáš Richter
Czechia

Lord David Richards
United Kingdom

Prof. Patrizia Riva
Italy

Prof. Rodrigo Rodriguez
Switzerland

Dr. Alexandros Rokas
Greece

Prof. Omar Salah
The Netherlands

Dr. Ignacio Sancho
Spain

Irina Selevestru
Moldova

Siv Sandvik
Norway

Prof. Jessica Schmidt
Germany

Prof. Catarina Serra
Portugal

Tinatin Shugarova
Georgia

Fátima Reis Silva
Portugal

Stine Snertingdalen
Norway

Dr. Petr Sprinz
Czechia

Raghildur Sophusdottir
Iceland

Prof. Lorenzo Stanghellini
Italy

Kate Stephenson
United Kingdom

Emil Szczepanik
Poland

Adrian Thery Martí
Spain

Felicity Toube
United Kingdom

Prof. Joeri Vananroye
Belgium

Prof. Melissa Vanmeenen
Belgium

Marina Vatanen
Finland

Dr. Signe Viimsalu
Estonia

Prof. Michael Veder
The Netherlands

Dr. Jiří Voda
Czechia

Dr. Georg Wabl
Austria

Prof. Rolef de Weijs
The Netherlands

Ilona Wolffram-van Doorn
The Netherlands

Nora Wouters
Belgium

Prof. Oleg Zaitsev
Russia

CERIL highlights in its Report the broad European support for the EIR 2015 as an instrument for cross-border insolvency cases. Nonetheless, experience with the EIR 2015 and recent legal developments suggest various areas for reform. CERIL recommends that further assessment of the EIR 2015 should consider the use of COMI, the treatment of the insolvency of groups of companies and revisit the EIR 2015's scope with regard to (confidential) preventive restructuring frameworks. In addition, refinements of the rules on insolvency-related judgments, exceptions to the lex fori concursus and the treatment of territorial (secondary) proceedings are urged. Lastly, the findings recommend making improvements to the EU interconnection of insolvency registers, enhancing cooperation and communication, particularly among judges, and considering the inclusion of rules in the EIR 2015 regarding insolvency proceedings in non-Member States.

About CERIL

CERIL is an independent non-profit, non-partisan, self-supporting organisation of approximately 90 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.

Website: www.ceril.eu | Email: info@ceril.eu