

# PROGRAMME



## Virtual Colloquium on Applicable Law in Insolvency Proceedings



Friday, 11 December 2020

11h00 – 13h00 and 15h00 – 17h00 (CET)

### Welcoming remarks (11:00 – 11:10)

**Anna Joubin-Bret**, Secretary, UNCITRAL secretariat

**Christophe Bernasconi**, Secretary General, Hague Conference on Private International Law (HCCH)

Event Moderation by

**José Angelo Estrella Faria**, Principal Legal Officer, UNCITRAL secretariat and

**João Ribeiro-Bidaoui**, First Secretary, Hague Conference on Private International Law (HCCH)

### I. Applicable law in insolvency proceedings: overview (11:10 – 11:45)

The aim of the session is to take stock of past initiatives, the existing legal framework, and how that legal framework establishes jurisdiction. It will consider how courts apply private international law rules to determine the applicable law in insolvency proceedings.

- **Irit Mevorach**, Professor of Law, University of Nottingham (UK) - Applicable law in insolvency proceedings and existing UNCITRAL texts
- **Reinhard Dammann**, Partner, Dammann Avocat, Paris (France) - Presentation of EU Law from a practitioner's view

### II. Applicable law in cross-border insolvency: practical implications (11:45 – 12:45)

The purpose of the session is to examine practical problems that have arisen regarding specific claims that are - in most legal systems - not governed by the *lex fori concursus*. This panel will focus on various aspects of cross-border insolvency cases: set-off rights and limitation payments, regulated financial markets, avoidance provisions, rights in rem. Following the presentations, there will be a brief period for questions and further discussion on issues raised in the first two sessions.

- **Charles Mooney**, Professor of Law, University of Pennsylvania Law School (US) - Rights in rem
- **Hideki Kanda**, Emeritus Professor, University of Tokyo (Japan) - Applicable law in securities and other financial instruments
- **Jasnica Garasic**, Professor of Law, Faculty of Law of the University of Zagreb (Croatia) - Applicable law for avoidance actions in cross-border insolvency
- **John Pottow**, Professor of Law, University of Michigan Law School (US) - Protection of local interests, including labor contracts, in cross-border insolvency

Open discussion (12:45 – 13:00)

Break (13:00 – 15:00)

### III. Applicable law in insolvency proceedings: regional implications (15:00 – 16:00)

This session will continue to discuss practical issues arising in respect of applicable law in cross-border insolvency proceedings, focussing on challenges faced in various regions of the world, as well as consider possible solutions. The session will conclude with a brief question and discussion period.

- **María Elsa Uzal**, Judge, Commercial Court of Appeals (Argentina) - Cross border insolvency in Latin America
- **Pooja Sinha**, Partner, GLS Law (Singapore) - Debt restructuring context in Southeast Asia
- **Winifred T. Kiryabwire**, Associate Professor of Law, Makerere University (Uganda) - Perspectives from Africa
- **Edward Janger**, Professor of Law, Brooklyn Law School (US) - Choice of law and virtual territoriality concept

Open Discussion (16:00 – 16:15)

### IV. Possible work by UNCITRAL and HCCH on applicable law in insolvency proceedings (16:15 – 16:45)

The aim of the session is to assess – in light of the preceding sessions - the feasibility and desirability of UNCITRAL and HCCH engaging in work on applicable law in insolvency proceedings and, if such work were to be undertaken, its possible form and scope.

- **José Angelo Estrella Faria**, Principal Legal Officer, UNCITRAL secretariat
- **Francisco Garcimartin**, Professor, Universidad Autonoma de Madrid (Spain), Rapporteur, Hague Conference on Private International Law (HCCH)
- **João Ribeiro-Bidaoui**, First Secretary, Hague Conference on Private International Law (HCCH)
- **Miha Zebre**, Legal and Legislative Officer, European Commission (EU)

Conclusions (16:45 – 17:00)

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