

Prof. Dr. Artur M. Swierczok LL.M

## Publications

### **I. Publisher/ Permanent Authorship**

- Editorial board member of International Corporate Rescue (ICR)
- Permanent author for the juris PraxisReport Insolvency Law (jurisPR-InsR)

### **II. Compendium**

- **Comments on sec. §§ 94-100 StaRUG**  
in: Flöther, StaRUG - Unternehmensstabilisierungs- und -restrukturierungsgesetz, C.H.Beck Verlag, (1st edition., 2021)
- **Comments on sec. 335-359 InsO and on art. 102, 102a, 103, 104, 107-110 EGInsO**  
in: Kayser/Thole, Heidelberger Kommentar zur Insolvenzordnung, C.F. Müller Press, (10th edition 2020)
- **Restructuring Law**, Introduction to the Directive of the European Commission regarding preventive restructuring frameworks, C.H. Beck Press, 2019 (co-author, approx. 50 pages)
- **Comments on sec. 335-359 InsO and on art. 102, 102a, 103, 104, 107-110 EGInsO**  
in: Kayser/Thole, Heidelberger Kommentar zur Insolvenzordnung, C.F. Müller Press, (9th edition 2018)

## III. Monographies

- **The reception of the English Scheme of Arrangement in Germany**  
(book, 250 pages), university dissertation, restructuring papers, volume 5, Nomos Press  
Baden-Baden, January 2014  
Reviewed by: *Hippeli*, in: *Zeitschrift für Wirtschaft- und Bankrecht (WM)* 2014, 2103
- **The purpose of the strict nature of the law on stock companies, pursuant to sec. 23 para 5 of the Public Companies Act for listed companies**  
(book, 52 pages e-book, 46 pages Pdf), Grin Verlag (e-fellow.net stipendiaten-wissen),  
October 2011

## IV. Articles

- **Germany: Insolvency Filing Obligation in Full Force Again – A Look on Upcoming Further Changes**  
in: *International Corporate Rescue (ICR)* 18 (5) (2021) 337 (together with J. Ponseck)
- **The New German Restructuring Regime**  
in: *International Corporate Rescue (ICR)* 18 (1) (2021) 7 (together with J. Ponseck)
- **Partial prolongation of the suspension of the duty of directors to file for insolvency in case of over-indebtedness**  
in: *Betriebs-Berater (BB)*, *BB-Standpunkt (Online)*, 08.09.2020
- **The German COVID-19 Insolvency Suspension Act (COVInsAG)**  
in: *International Corporate Rescue (ICR)* 17 (2) (2020) 168

- **The COVID-19-Insolvency-Suspension Act (COVInsAG)**  
in: Betriebs-Berater (BB) 2020, 898 (together with N. Lütcke and C. Holzmann)
  
- **New Legal Provisions Regarding Tax Exemption of Restructuring Profits in Germany: A Step in the Right Direction!**  
in: International Corporate Rescue (ICR) 16 (4) (2019) 223 (together with A. Witfeld)
  
- **Greetings from Brussels: The final draft of the restructuring directive!**  
in: Betriebs-Berater (BB) 2019, 514 (together with C. Lange)
  
- **The new Art. 102c EGIInsO**  
in: Zeitschrift für das gesamte Insolvenzrecht (ZInsO) 2017, 1861
  
- **The New German Insolvency Law for Groups of Companies – Blessing or curse?**  
in: Betriebs-Berater (BB) Die erste Seite 2017, Nr. 23 (together with M. Jawansky)
  
- **New Insolvency Law for Groups of Companies in Germany**  
in: International Corporate Rescue (ICR) 14 (4) (2017) 240 (together with M. Jawansky)
  
- **New German Insolvency Claw-back Rules**  
in: International Corporate Rescue (ICR) 14 (4) (2017) 279 (together with S. Sax)
  
- **The Recognition of an English Scheme of Arrangement in Germany Post Brexit**  
in: Zeitschrift für Wirtschaftsrecht (ZIP) 2017, 601 (together with S. Sax)
  
- **The new claw-back rules are coming soon**  
in: Betriebs-Berater (BB) Die erste Seite 2017, Nr. 10 (together with S. Sax)
  
- **A pre-insolvency restructuring procedure for European companies**  
in: Betriebs-Berater (BB) 2017, 323 (together with S. Sax und J. Ponseck)

- **The Recognition of an English Scheme of Arrangement in Germany Post Brexit: The Same But Different?**  
in: International Corporate Rescue (ICR), Special Issue, Brexit - Leading Restructuring and Insolvency Articles, March 2017, 1 (together with S. Sax)
  
- **The Recognition of an English Scheme of Arrangement in Germany Post Brexit: The Same But Different?**  
in: International Corporate Rescue (ICR), 14 (1) (2017) 38 (together with S. Sax)
  
- **The English Scheme of Arrangement – a suitable restructuring tool for German companies! – At the same time reply to the paper of Hoffmann/Giancristofano in ZIP 2016, 1151-1155 –**  
in: Zeitschrift für Wirtschaftsrecht (ZIP) 2016, 1941 (together with S. Sax)
  
- **The right to access records in insolvency proceedings pursuant to sec. 4 of the German Insolvency Code in connection with sec. 299 of the German Code of Civil Procedure**  
in: Neue Zeitschrift für Insolvenz- und Sanierungsrecht (NZI) 2016, 566 (together with S. Kontny)
  
- **Reform Act on German Insolvency Avoidance Rules**  
in: International Corporate Rescue (ICR), 13 (3) (2016) 151 (together with S. Sax)
  
- **Recognition of English solvent Schemes of Arrangement in Germany**  
in: The King's Student Law Review (KSLR), 5 (1) (Spring 2014) 78  
<http://blogs.kcl.ac.uk/kslr/wp-content/blogs.dir/86/files/2014/04/511006.pdf>
  
- **The EU Commissions proposal to reform the European Insolvency Regulation**  
in: Zeitschrift für Wirtschaftsrecht (ZIP) 2013, 550 (together with C. Thole)

## V. Case Articles

- **Start-ups in a Crisis: What to Watch out For? Evaluation of Recent German Court Decisions** in: International Corporate Rescue (ICR) 19 (3) (2022) 147 (together with J. Ponseck)
- **Case Note on the Decision of the European Court of Justice in Tiger, dated 4 December 2019 – C 493/18**  
in: International Corporate Rescue (ICR) 17 (6) (2020) 478 (together with S. Saed)
- **Decision of the European Court of Justice in Riel, dated 18 November 2019 – C 47/18**  
in: International Corporate Rescue (ICR) 17 (5) (2020) 391 (together with S. Saed)
- **Current case law on the right by of a limited partner of a limited liability partnership to access records in (preliminary) insolvency proceedings - At the same time note on the decision of the OLG Hamburg NZI 2020, 343**  
in: Neue Zeitschrift für Insolvenz- und Sanierungsrecht (NZI) 2020, 315
- **The Establishment of Preferential Claims in Preliminary Self-Administration Proceedings under German Insolvency Law: A Happy Ending?** in: International Corporate Rescue (ICR) 17 (1) (2020) 29 (together with S. Saed)
- **§ 103 InsO and the functional synallagma**  
in: Zeitschrift für das gesamte Insolvenzrecht (ZInsO) 2019, 1931
- **Personal Liability of Managing Directors in Self-Administration Proceedings under German Insolvency Law**  
in: International Corporate Rescue (ICR) 15 (6) (2018) 347 (together with E. Baron von Hahn)

- **The German autonomous international insolvency law: A life in the shadow of the European Insolvency Regulation! – At the same time note on the decision of the BGH, 8.2.2018 - IX ZR 103/17, BB 2018, 2060**  
in: Betriebs-Berater (BB) 2018, 2057
- **The Determination of Illiquidity under German Insolvency Law**  
in: International Corporate Rescue (ICR) 15 (4) (2018) 220 (together with E. Baron von Hahn)
- **Current Case Law of the European Court of Justice Regarding Insolvency-Related Ancillary Claims/Proceedings**  
in: International Corporate Rescue (ICR) 15 (3) (2018) 160 (together with M. Jawansky)
- **Current case law of the European Court of Justice regarding insolvency-related ancillary claims – At the same time note on the decision of the ECJ, 9.11.2017 – C-641/16, DZWIR 2018, 165 und ECJ, 20.12.2017 – C-649/16, DZWIR 2018, 168 –**  
in: Deutsche Zeitschrift für Wirtschafts- und Insolvenzrecht (DZWIR) 2018, 162
- **Liability Claims against Managing Directors Pursuant to Sec. 64 Sentence 1 of the German Limited Liability Companies Act**  
in: International Corporate Rescue (ICR) 15 (2) (2018) 97 (together with F. Holder)
- **The Permissible Duration of Bridge Financing during the Financial Crisis of a Debtor under German (Insolvency) Law**  
in: International Corporate Rescue (ICR) 15 (2) (2018) 92
- **Restructuring Order of the German Federal Ministry of Finance Violates German Tax Law: And now?**  
in: International Corporate Rescue (ICR) 14 (3) (2017) 169 (together with S. Sax)

- **Insolvency claw-back of congruence agreements with respect to continuing obligations – At the same time note on the decision of the BGH, 17.12.2015 – IX ZR 287/14, ZInsO 2016, 326 und OLG Bamberg, 13.12.2016 – 5 U 209/13, ZInsO 2017, 387**  
in: Zeitschrift für das gesamte Insolvenzrecht (ZInsO) 2017, 420 (together with J. Ponseck)
- **Constitution of preferential claims by the debtor in preliminary self-administration proceeding pursuant to sec. 270a of the German Insolvency Code – a never ending story? – At the same time note on the decisions of the AG Hannover, 01.07.2016 – 908 IN 460/16, AG Hannover, 15.07.2016 – 908 IN 460/16 = ZInsO 2016, 1535 and LG Hannover, 22.08.2016 – 11 T 30/16, ZInsO 2016, 1861 –**  
in: Zeitschrift für das gesamte Insolvenzrecht (ZInsO) 2016, 2366
- **The burden of proof for the cessation of a default in connection with instalment payments – At the same time note on the BGH decision dated 24 March 2016 - IX ZR 242/13 –**  
in: Deutsche Zeitschrift für Wirtschafts- und Insolvenzrecht (DZWIR) 2016, 361

## VI. Case Notes

- **OLG Düsseldorf 09.02.2022 – 12 U 54/21**  
in: Neue Zeitschrift für Insolvenz- und Sanierungsrecht (NZI) 2022, 562 (together with I. Labusga)
- **OLG Hamburg, 16.02.2022 – 12 U 12/18**  
in: Zeitschrift für Internationales Wirtschaftsrecht (IWRZ) 2022, 127 (together with J. Ponseck)
- **BGH, 09.12.2021 - IX ZR 201/20**  
in: Betriebs-Berater (BB) 2022, 399

- **BGH, 15.10.2020 – IX AR (VZ) 2/19**  
in: Neue Zeitschrift für Insolvenz- und Sanierungsrecht (NZI) 2021, 127 (together with J. Saed)
- **BGH, 22.10.2020 – IX ZR 231/19**  
in: Entscheidungen zum Wirtschaftsrecht (EWiR) 2021, 121
- **BGH, 12.12.2019 – IX ZR 328/18**  
in: Entscheidungsanmerkungen zum Wirtschafts- und Bankrecht (WuB) 2020, 256
- **ECJ, 21.11.2019 - C-198/18 (CeDe Group)**  
in: juris PraxisReport Insolvenzrecht (jurisPR-InsR) 07/2020, Anm. 2.
- **BGH, 22.11.2019 – IX ZR 223/18**  
in: juris PraxisReport Insolvenzrecht (jurisPR-InsR) 06/2020, Anm. 1.
- **ECJ, 04.12.2019 – C-493/18 (Tiger)**  
in: juris PraxisReport Insolvenzrecht (jurisPR-InsR) 05/2020, Anm. 2.
- **ECJ, 18.09.2019 – C-47/18 (Riel)**  
in: juris PraxisReport Insolvenzrecht (jurisPR-InsR) 01/2020, Anm. 1.
- **ECJ, 04.10.2018 - C-337/17 (Feniks)**  
in: Deutsche Zeitschrift für Wirtschafts- und Insolvenzrecht (DZWIR) 2019, 530 (together with J. Saed)
- **BGH 11.07.2019 - IX\_ZR 210/18**  
in: Betriebs-Berater (BB) 2019, 2259

- **BGH, 27.06.2019 - IX ZR 167/18**  
in: Entscheidungen zum Wirtschaftsrecht (EWiR) 2019, 595 (together with S. Schubert)
  
- **BGH, 22.11.2018 - IX ZR 167/16**  
in: Neue Juristische Wochenschrift (NJW) 2019, 227
  
- **EuGH, 06.06.2018 - C-250/17 (Tarrago da Silveira)**  
in: Entscheidungen zum Wirtschaftsrecht (EWiR) 2018, 465 (together with P. Dittmann)
  
- **BGH, 26.04.2018 - IX ZR 238/17**  
in: Betriebs-Berater (BB) 2018, 1359 (together with E. Baron von Hahn)
  
- **AG Hamburg St.-Georg, 08.11.2017 – 925 C 262/17**  
in: juris PraxisReport Insolvenzrecht (jurisPR-InsR) 08/2018, Anm. 5.
  
- **BGH, 01.06.2017 – IX ZR 48/15**  
in: Entscheidungsanmerkungen zum Wirtschafts- und Bankrecht (WuB) 2017, 612  
(together with C. Schlicht)
  
- **BGH, 07.03.2017 – XI ZR 571/15**  
in: Entscheidungen zum Wirtschaftsrecht (EWiR) 2017, 355
  
- **ECJ, 09.11.2017 – C-212/15 (ENEFI)**  
in: International Corporate Rescue (ICR) 14 (3) (2017) 221
  
- **ECJ, 26.10.2016 – C-195/15 (SCI Senior Home)**  
in: International Corporate Rescue (ICR) 14 (2) (2017) 148
  
- **BFH, 28.11.2016 – GrS 1/15**  
in: Betriebs-Berater (BB) 2017, 487

- **High Court of Justice (Chancery Division) London (Justice Arnold), 09.09.2016 – [2016] EWHC 2808**  
in: Entscheidungen zum Wirtschaftsrecht (EWiR) 2017, 85 (together with S. Sax)
- **ECJ, 09.11.2017 – C-212/15 (ENEFI)**  
in: Europäische Zeitschrift für Wirtschaftsrecht (EuZW) 2017, 59 (together with S. Kontny)
- **BGH, 04.07.2016 – IX ZB 46/15**  
in: Entscheidungsanmerkungen zum Wirtschafts- und Bankrecht (WuB) 2016, 761 (together with S. Kontny)
- **ECJ, 26.10.2016 – C-195/15 (SCI Senior Home)**  
in: Entscheidungen zum Wirtschaftsrecht (EWiR) 2016, 703
- **High Court of Justice (Chancery Division) London (Justice Newey), 17.12.2015 – [2015] EWHC 3778**  
in: Entscheidungen zum Wirtschaftsrecht (EWiR) 2016, 673 (together with S. Sax)
- **AG Hannover, 01.07.2016 – 908 IN 46016 – 2**  
in: juris PraxisReport Insolvenzrecht (jurisPR-InsR) 19/2016, Anm. 4.
- **BGH, 14.04.2016 – IX ZR 161/15**  
in: Entscheidungen zum Wirtschaftsrecht (EWiR) 2016, 435
- **OLG Koblenz, 26.01.2016 – 3 U 891/15**  
in: juris PraxisReport Insolvenzrecht (jurisPR-InsR) 18/2016, Anm. 2
- **BGH, 15.03.2016 – II ZR 119/14**  
in: Entscheidungsanmerkungen zum Wirtschafts- und Bankrecht (WuB) 2016, 554

- **ECJ, 10.12.2015 – C-594/14 (Simona Kornhaas)**  
in: International Corporate Rescue (ICR) 13 (4) (2016), 263 (together with S. Sax)
  
- **BGH, 24.03.2016 – IX ZR 157/14**  
in: Betriebs-Berater (BB) 2016, 1364
  
- **OLG Jena, 18.11.2015 – 1 U 503-15**  
in: juris PraxisReport Insolvenzrecht (jurisPR-InsR) 9/2016, Anm. 4
  
- **BGH, 17.12.2015 – IX ZR 287/14**  
in: Entscheidungsanmerkungen zum Wirtschafts- und Bankrecht (WuB) 2016, 356
  
- **ECJ, 15.10.2015 – C-310/14 (Nike European Operations Netherlands BV)**  
in: International Insolvency Law Review (IILR) 2016, 139 (together with D. Schulte-Stieffermann)
  
- **ECJ, 16.04.2015 – C-557/13 (Hermann Lutz)**  
in: Insolvency Intelligence 2016, Issue 2, 25 (together with S. Sax)
  
- **BGH, 15.10.2015 – IX ZR 265/12**  
in: Entscheidungsanmerkungen zum Wirtschafts- und Bankrecht (WuB) 2016, 119
  
- **ECJ, 10.12.2015 – C-594/14 (Simona Kornhaas)**  
in: Neue Zeitschrift für Insolvenz- und Sanierungsrecht (NZI): 2016, 50
  
- **ECJ, 11.06.2015 – C-649/13 (Comité d'entreprise de Nortel Networks u.a.)**  
in: International Insolvency Law Review (IILR) 2016, 40 (together with F. Holder)
  
- **ECJ, 11.06.2015 – C-649/13 (Comité d'entreprise de Nortel Networks u.a.)**  
in: Entscheidungsanmerkungen zum Wirtschafts- und Bankrecht (WuB) 2015, 675

- **ECJ, 15.10.2015 – C-310/14 (Nike European Operations Netherlands BV)**  
in: Neue Zeitschrift für Insolvenz- und Sanierungsrecht (NZI) 2015, 957

## VII. (Book) Reviews

- **Christoph G. Paulus (Hrsg.), Europäische Insolvenzordnung (EuInsVO), 5 Aufl. 2017, Fachmedien Recht und Wirtschaft, geb., 665 Seiten, € 198, ISBN 978-3-8005-1628-5**  
in: Zeitschrift für Wirtschafts- und Bankrecht (WM) 2018, 1067
- **Beck/Depré (Hrsg.), Praxis der Insolvenz, Ein Handbuch für die Beteiligten und ihre Berater, 3 Aufl. 2017, Verlag Vahlen, geb., 1871 Seiten, € 199, ISBN 978-3-8006-5187-0**  
in: Zeitschrift für Wirtschafts- und Bankrecht (WM) 2017, 1916

## VIII. Newspaper Article etc.

- **Federal Ministry of Finance Restructuring Order violates tax law – what next?**  
in: International Law Office (ILO), Insolvency & Restructuring, Germany, Update, 26.05.2017 (together with S. Sax)
- **New insolvency claw-back rules coming soon**  
in: International Law Office (ILO), Insolvency & Restructuring, Germany, Update, 17.03.2017 (together with S. Sax)
- **Federal Ministry of Finance Restructuring Order violates tax law**  
in: International Law Office (ILO), Insolvency & Restructuring, Germany, Update, 03.03.2017 (together with S. Sax)

- **Pre-insolvency restructuring procedure of the EU**  
in: PLATOW Recht dated 13.12.2016 (together with S. Sax)
- **Insolvency is useful for the state**  
in: Frankfurter Allgemeine Zeitung (FAZ) dated 26.10.2016 (together with S. Sax)
- **Last-minute actions to avoid claw-back risks**  
in: International Law Office (ILO), Insolvency & Restructuring, Germany, Update, 20.05.2016 (together with S. Sax)
- **Reform Act on Insolvency Avoidance Rules**  
in: International Law Office (ILO), Insolvency & Restructuring, Germany, Update, 11.03.2016 (together with S. Sax)
- **Reparking more often in the future like Apcoa?**  
in: INDat Report, volume 02\_2015 (interview contribution)

## **IX. Newsletter, Guides etc.**

- **Global Restructuring & Insolvency Guide, 8<sup>th</sup> edition** (numerous authors)
- **Snapshot on the status of implementation of the EU Restructuring Directive in selected Member States and the new English scheme – Update: May 2022** (numerous authors)
- **Insolvency filing obligations for start-ups** (together with J. Ponseck und A. Moser)
- **Issues for Trades of Non-Performing Loans across Europe and in China** (numerous authors)

- **Germany: Start-ups in a crisis - what to watch out for? Evaluation of recent German court decisions** (together with J. Ponseck and A. Moser)
- **Directors: Be careful regarding the obligation to file for insolvency** (together A. Moser)
- **Restructuring made easier: The StaRUG / Options and hurdles** (together with J. Ponseck and A. Moser)
- **Since 1 May 2021: Insolvency filing obligation in full force again - a look on upcoming further changes** (together with J. Ponseck and A. Moser)
- **StaRUG – Imminent illiquidity and Restructuring Plan** (together with J. Ponseck and A. Moser)
- **Snapshot on the status of implementation of the EU Restructuring Directive in selected Member States and the new English scheme** (numerous authors)
- **Germany: Court Decision regarding entry requirements for StaRUG and content of restructuring plan** (together with J. Ponseck and A. Moser)
- **Duties of directors in a crisis: important changes** (together with J. Ponseck)
- **Duty to file for insolvency: Further prolongation of the suspension** (together with J. Ponseck)
- **Status quo regarding the duty of managing directors to file for insolvency and their liability in a crisis situation: an overview over the latest reforms** (together with J. Ponseck and A. Moser)
- **The New German Restructuring Regime** (together with J. Ponseck)

- **Cross-border insolvencies and the recast European Insolvency Regulation (EIR)** (together mit A. Schluck-Amend)  
<https://www.cmshs-bloggt.de/insolvenzrecht/grenzueberschreitende-insolvenzen-und-die-reformierte-euinsvo/>
- **Companies in distress – restructuring concepts and opinions** (together with A. Schluck-Amend)  
<https://www.cmshs-bloggt.de/insolvenzrecht/unternehmen-in-der-krise-sanierungskonzepte-und-sanierungsgutachten/>
- **German insolvency law for group of companies** (together with J. Kühne)  
<https://www.cmshs-bloggt.de/insolvenzrecht/deutsches-konzerninsolvenzrecht/>
- **Tax exemption for restructuring profits comes into force** (together with A. Kenk)  
<https://www.cmshs-bloggt.de/insolvenzrecht/die-steuerfreiheit-fuer-sanierungsgewinne-tritt-in-kraft/>

## Presentations

- **Corporate financing in the crisis** (Gastvortrag), Frankfurt School of Finance & Management, 23.09.2021
- **Claw-back claims concerning intentional behavior (*Vorsatzanfechtung*) - trend reversal according to current case law\_reappraisal, enforcement and defense in practice**, working group "young insolvency lawyers" of ARGE insolvency law and restructuring and "FORUM Young Advocacy", 05.05.2022

- **Automotive under pressure: Between long-term transformation work and short-term chip crisis** / Wake-up call - opportunities for refocusing and long-term corporate survival, ATREUS, 10.02.2022
- **The Debt-to-Equity Swap** (guest presentation), Frankfurt School of Finance & Management, 29.09.2021
- **The Debt-to-Equity Swap from an Economic and Legal Practitioner's Perspective: Myth and Truth**, TMA NextGen Event – digital, 23.09.2022
- **Corporate Groups: Facilitation and Control**, Harris Manchester College, Oxford, 18.01.2018 (speaker expert panel)  
<https://www.law.ox.ac.uk/news/2018-01-18-corporate-groups-facilitation-and-control>
- **The opposite problem - not too much but not enough literature!**, Oxford Graduate Legal Research Conference 23 – 24.04.2012