

PRESS RELEASE

The Gravenbruch Circle submits statement on the proposal for a directive on preventive restructuring frameworks to the European Commission

- **Formulation of 13 specific amendment proposals aimed at increasing clarity in the directive's practical application**
- **Scope of the European regulation should be limited to money lenders**
- **A new Restructuring Ordinance could complement Germany's well-functioning insolvency law**

Halle / Saale, 1 March 2017; The Gravenbruch Circle – an association of Germany's leading national insolvency administrators and restructuring experts – has commented on the European Commission's proposal of 22 November 2016 for a directive on preventive restructuring frameworks and presented a total of 13 specific amendment proposals. In order to ensure that a European regulation on pre-insolvency restructuring procedures can be clearly applied in practice, the members of the Gravenbruch Circle have, in particular, suggested that its scope be limited to agreements concluded between companies and financial creditors. Here, the European regulation should provide a framework for securing or restoring the economic viability of the affected companies through the restructuring of the liability side of their balance sheet. A new Restructuring Ordinance could thus also provide a valuable tool that complements Germany's well-functioning insolvency law.

“Standard European-wide restructuring law that works in all member states would serve to boost our level of competitiveness when compared to systems around the world. It is for this reason that the Gravenbruch Circle is contributing its collective experience in connection with this current legislative procedure”, said Lucas F. Flöther, spokesman of the

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Gravenbruch Circle. “A well-defined restructuring framework would be a good complement to Germany’s very-well-functioning insolvency law. We believe that a tool such as this makes sense, but this is not the case, however, as regards a paradigm shift away from creditor satisfaction, and towards discharge procedures”.

The other amendments put forward by the Gravenbruch Circle chiefly aim to

- clearly limit the group of creditors taken into account to money lenders,
- set the approval rate for any pre-insolvency restructuring plan at no lower than 75% of the sum of the affected claims,
- rule out the possibility of a comprehensive moratorium for all creditors as part of pre-insolvency proceedings,
- make a clear differentiation between the different procedures for restructuring, insolvency and recapitalisation and
- maintain room for manoeuvre in terms of implementation for those member states in which effective restructuring-friendly processes are already in place.

The Gravenbruch Circle is convinced that the existing German regulations already allow for companies to be restructured effectively and efficiently at an early stage. In this regard, the German minimum standards for out-of-court and court restructuring go far beyond the intention of the European Commission.

The statement of the Gravenbruch Circle was submitted to the Directorate-General for Justice and Consumers of the European Commission on time prior to 1 March 2017. It is based on the theses on

pre-insolvency restructuring procedures that were published by the Gravenbruch Circle in May 2016 and January 2017. Details of the statements can be found in the enclosed full text.

About the Gravenbruch Circle

Since 1986, the Gravenbruch Circle has brought together representatives of Germany's leading insolvency law firms that are characterised by trans-regional restructuring expertise as well as comprehensive expertise in this field. Members undertake to ensure that they and their organisations exercise the highest quality and performance standards, documented by the exclusive certificate *InsO Excellence* that is verified by independent auditors. The Circle currently has 20 active members. Prof. Dr. Lucas F. Flöther has been the Spokesman of the Gravenbruch Circle since March 2015.

Since its inception, the Gravenbruch Circle has dedicated itself as a centre of expertise to the development and promotion of insolvency law and associated legal fields from a practical perspective. In addition, the Gravenbruch Circle contributes its experience of cross-border group insolvencies, and takes part in the continued development of international standards and rules in the restructuring field.

The interdisciplinary exchange of know-how and joint discussions within the Gravenbruch Circle facilitate detailed assessments and expert opinions. These are widely recognised by national and international specialists in the field of insolvency and restructuring law, and the views of Circle members are consulted during the course of legislative procedure.

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