Preface

This book arises out of a research study that was generously funded by the European Commission through a competitive tender process (Tender No. JUST/2014/JCOO/PR/CIVI/0075). We thank the European Commission very much for their funding.

In 2015, the European Commission DG Justice commissioned a team from the School of Law at the University of Leeds to undertake a comparative study on substantive insolvency law throughout the EU, with a view to enhancing the knowledge base of the Commission and outlining the possibilities of harmonization and reform measures. The Leeds project team was made up of Gerard McCormack, Andrew Keay, Sarah Brown and Judith Dahlgreen, with Ruth Binns as project administrator. It worked alongside a team of 30 national reporters as well as an international advisory group. The national reporters represented each of the 28 EU Member States and two comparator countries, the United States and Norway. The national reporters and the members of the international advisory group are detailed in the list of contributors. The national reporters provided much of the raw material on which the study and the book is based, although we also carried out independent academic research and drew on other policy material. In the main, national reporters reported on the state of their national law up to October 2015 but in a number of cases we have been able to incorporate later developments.

The reform of insolvency law is very much at the top of the EU policy agenda. It forms an integral part of the Capital Markets Union project and the ‘Five Presidents Report’ of 22 June 2015 on Completing Europe’s Economic and Monetary Union highlights the current state of insolvency law as being among the most important bottlenecks preventing the integration of capital markets. The European Commission’s Single Market Strategy recognizes that impediments in the field of insolvency law can create a significant disincentive to entrepreneurial activity, and the potential impact of divergent personal insolvency procedures on cross-border credit relationships and investment has also been highlighted in the Commission’s recent Green Paper on Retail Financial Services. Furthermore, on 12 July 2016, the Commission convened a major conference in Brussels, titled ‘Convergence of Insolvency Frameworks within the European Union: The
Way Forward’, and at this Conference there was substantial discussion and debate as to how insolvency law in the EU might be improved.

At the time of writing, specific legislative and other initiatives in the sphere of insolvency are being considered by the European Commission, including a strengthening of the EC Recommendation of March 2014 on a new approach to business failure and insolvency and its implementation in Member States (see https://webcast.ec.europa.eu/insolvency-conference and http://ec.europa.eu/justice/civil/files/insolvency/impact_assessment_en.pdf).

We hope that our study and this book will influence the future European reform agenda and also more indirectly the ongoing debates on reform of insolvency and restructuring law that are taking place in countries such as the United Kingdom, Australia and the United States.

Since the study was completed and in the course of transforming the study into a book, our academic gang of four became three, with Judith Dahlgreen leaving the University of Leeds for pastures new. We thank her for her work on initial drafts of Chapters 7 and 8. Since our study was completed, we have had the UK ‘Brexit’ Referendum of 23 June 2016. This event may cast a long shadow and the precise implications are as yet uncertain but we hope that it does not unduly dim the prospects for further European and international scientific research and co-operation.

In the course of the project we have incurred many debts: to Judith and to Ruth Binns, our very able project administrator, but also to the national reporters and to members of the international advisory group. We thank all these individual colleagues and friends who gave up their valuable time. We also thank colleagues at the University of Leeds, and in particular the Head of the School of Law, Alastair Mullis, for supporting us in our endeavours.

We take individual and collective responsibility for the contents of the book as a whole but for the sake of completeness we should perhaps point out that Gerard McCormack worked primarily on the Introduction and on Chapters 2, 3 and 6, and together with Andrew Keay on Chapter 5. Andrew Keay, as well as working with Gerard McCormack on Chapter 5, and contributing to the Introduction, worked primarily on Chapters 1 and 4. Sarah Brown worked primarily on Chapters 7 and 8.

On a personal level, Gerard McCormack would like to thank Presy, Amelia and Anthony, and Sarah Brown would like to thank Andy for his continuing support and patience, always there regardless of wherever he happens to be in the world.

Gerard McCormack
Andrew Keay
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