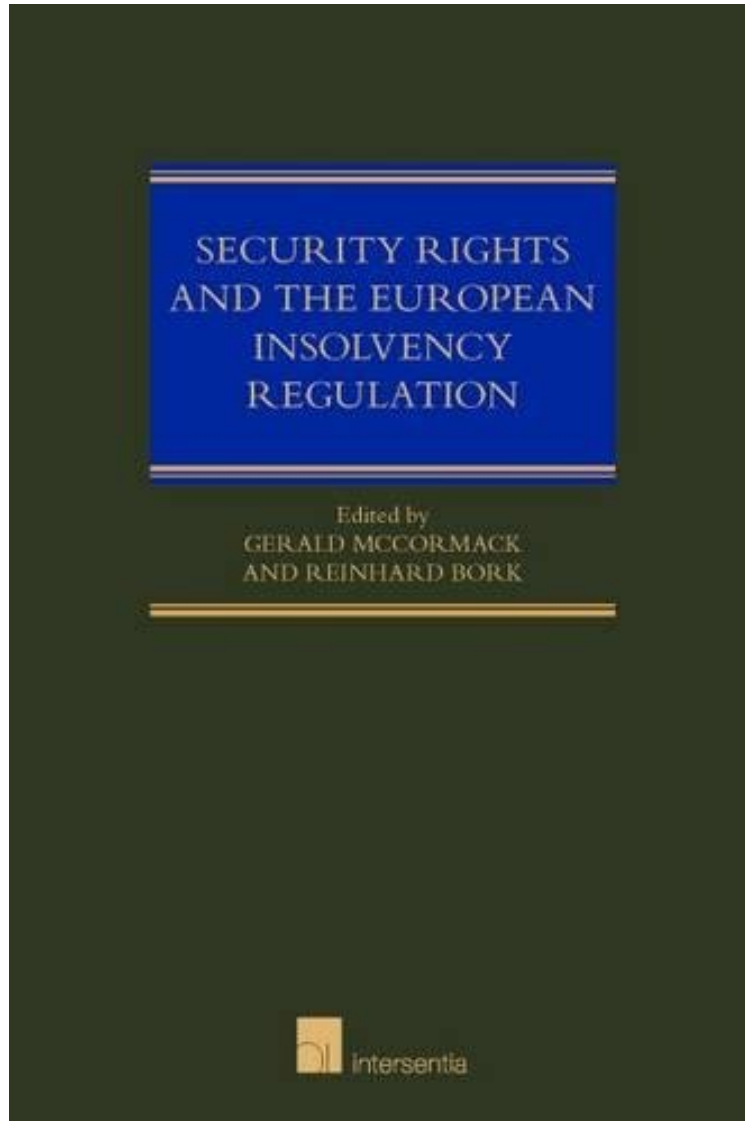


(Download free pdf) Security Rights and the European Insolvency Regulation

Security Rights and the European Insolvency Regulation

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From Intersentia : Security Rights and the European Insolvency Regulation before purchasing it in order to gage whether or not it would be worth my time, and all praised Security Rights and the European Insolvency Regulation:

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LEGAL RIGHTS OVER PROPERTY ACROSS A RANGE OF EUROPEAN UNION JURISDICTIONS AND THE UK TOO
An appreciation by Elizabeth Robson Taylor of Richmond Green Chambers and Phillip Taylor MBE, Head of Chambers and Reviews Editor, The Barrister
Security rights? Legal rights over property, we would be inclined

to say in common law jurisdictions, which this book does cover, as well as other legal systems across the European Union. These include the Germanic legal system (Austria and Germany) the Roman legal system (Spain, Italy and France) and the central and eastern European systems of Hungary, Poland and Lithuania. The book has arisen out of a research project funded by the European Commission under the Civil Justice Action programme, although the disclaimer by authors Gerard McCormack and Reinhard Bork indicates that it should not be taken to reflect the views of the Commission. As the authors explain, security rights are essentially rights over property intended to secure payment of a debt or other obligation. Fundamentally important in the granting of credit, they are generally considered to increase the availability of credit and the lowering of its cost, while conferring other benefits to debtors and the overall economy. UK lawyers will be particularly interested in Gerald McCormack's report in the latter of the book's two sections on security rights and insolvency in the common law system of England (as the legal traditions in Scotland and Northern Ireland differ slightly). Pointing out that there is no universally recognized definition of security rights under the common law, he goes on to describe security in this context as generally signifying a right over property to ensure the payment of money, or the performance of some other obligation, adding that the property over which security is taken is referred to as secured or collateralised. Within this impressive volume of over 700 pages, a host of related issues are discussed in the context of insolvency proceedings affecting, for example, the debtor, amid suggestions for possible reform measures and an emphasis (not exclusive to this book) on the need for further European harmonisation. Speaking of which, there is an initial note of lament on the matter of Brexit, which looms ever closer. It may cast a long shadow, remark the authors, expressing the hope that these events do not dim unduly the prospects for further European scientific research and cooperation. Confident that the current negotiations on Brexit will result in a positive, or at least a reasonable outcome, comparative lawyers and indeed any or all practitioners involved in property matters within the European Union will more than likely be interested in acquiring a copy of this information-rich and very useful new title from the Cambridge and Antwerp-based publishers Intersentia. The publication date is cited as at 2017.

Security rights are of fundamental importance to the granting of credit. They are generally considered to increase the availability and lower the cost of credit, but there appear to be divergent views across Europe and elsewhere on the extent to which it should be possible to create security rights over assets. Moreover, laws in many countries, such as avoidance laws, strike at advantage-gaining by creditors in the period immediately before formal insolvency proceedings are instituted. It is seen as potentially unfair to other creditors who may be forced into taking enforcement proceedings against the debtor, which may precipitate the premature liquidation of the debtor with an overall loss of economic value. This book assesses the conception of security rights according to the different European legal traditions. It also evaluates the appropriateness of the protection given to security rights in light of: developments in those European legal traditions; the objective of the Insolvency Regulation to facilitate the more effective administration of cross-border insolvency cases; the need for security in the context of the financial crisis; the basic principles of ensuring fairness between creditors; forestalling premature liquidation; and reinforcing the collective nature of the insolvency process. [Subject: Finance Law, European Law]