

ASIAN INSTITUTE OF INTERNATIONAL FINANCIAL LAW
FACULTY OF LAW, THE UNIVERSITY OF HONG KONG

Seminar

**Directors' Liability for an Insolvent Company's
Debts: Comparative Law Remarks**

Dr Konrad Osajda

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University of Warsaw*

Tuesday, 24 October 2017

12:30 - 1:30 pm

**Academic Conference Room, 11/F Cheng Yu Tung Tower
The University of Hong Kong**

The presentation deals with directors' liability for an insolvent company's debts. This issue is regulated in the majority of jurisdictions, though a comparative analysis discloses significant differences as to its operation in practice as well as practical and theoretical importance. The differences are mostly visible when comparing leading common law and civil law jurisdictions: English law and German law. English law developed many parallel legal instruments, but the most important one is the doctrine of wrongful trading. German law regulates this issue in bankruptcy law and calls it *Insolvenzverschleppungshaftung*. The presentation discusses these instruments, underlining their advantages and weaknesses. Moreover, as for comparative reasons, it mentions its equivalent in US law (the doctrine of deepening insolvency) and very specific Polish law regulation. The ultimate aim of the presentation is to assess if such legal instruments are effective tools to protect companies' creditors and which elements of their legal regimes proved to be the most desirable.

Konrad Osajda, Hab., PhD, LL.M., JD, is an Associate Professor at Faculty of Law and Administration at the University of Warsaw. He works for the Supreme Court of Poland as Full Member of Studies and Analyses Office. He taught several times as visiting professor (Ottawa 2013, 2015, 2017; Vienna 2014). He is a member of several prestigious organizations including European Law Institute and Committee of Legal Sciences of Polish Academy of Sciences. He was granted many awards and scholarships including: Ministry of Science and Higher Education for outstanding young scholar (2012), Konrad Zweigert Scholarship granted by the Max Planck Institute for Comparative and Private International Law in Hamburg (2011), Foundation for Polish Science (2006, 2007), the Edward Barry McDougall Memorial Scholarship (2005), Primus Inter Pares (2004). His book (monograph) was recognized as the best monograph on commercial and corporate law published in 2009 in Poland and granted "Gold Wings" award (2009). Konrad Osajda published more than 100 books and papers. He is editor in chief of the Great Commentary to the Polish Private Law, including Polish Civil Code (9 volumes, more than 14000 pages).

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