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Conclusions

***COVID-19: Challenges for (re-)insurance law
– a transnational perspective***

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Covid 19-pandemic – Challenges for general contract law

- The global pandemic caused by Covid 19 has **serious implications** for national and international commercial contracts.
- For some economic contracts and sectors, this means **a real stress test**.
- Concerning an **individual contractual relationship**, the **risks** resulting from the pandemic **must be distributed** between the contracting parties.

International commercial contracts are particularly affected due to the values involved and the complexity that follows from internationality.

UNIDROIT PICC - PRICL

Testing of suitability and functionality

Urgent demand that the available soft law-instruments of **PICC** as a set of comprehensive general rules applicable to different types of commercial contract, and **PRICL** as a selected set of rules applicable to reinsurance contracts be subjected to a **test in terms of their appropriateness and functionality**

- **NOTE OF THE UNIDROIT SECRETARIAT on PICC and Covid 19**
- **Upcoming Note on PRICL and Covid 19**

Different challenges for PICC and PRICL

PICC:

- Which contracting party has to bear the risk that the COVID 19 crisis makes the **performance of the contract** more difficult or even impossible?
- **force majeure and hardship**

PRICL:

- Does the insurance contract provide **coverage** regardless of impacts of the pandemic?
- **interpretation of the contractual provisions and supplementary applicable regulations**

Nota bene: Performance of insurance contracts may also be affected by the COVID 19 crisis e.g. policyholders who are temporarily unable to pay premiums > fortunately not a use case for reinsurance

PRICL - What are the key issues?

loss aggregation

In the interest of legal clarity, the PRICL **clearly differentiate event-based and cause-based aggregation.**

- determining the preconditions for an aggregation method chosen by the parties **requires careful interpretation** of the reinsurance contract and, in most cases - due to the regular dependency on the obligations of the primary insurer vis-à-vis its customers - also of the primary insurance contracts.

PRICL - What are the key issues?

follow-the-settlements and follow-the-fortunes

In the interest of legal clarity, the PRICL clearly differentiate both concepts:

- **follow-the-settlements:** "if the losses are arguably within the cover of the primary insurance contract"
- **follow-the-fortunes:** beyond the reinsured's control (as an immanent requirement)

PRICL – goals – and achievement ?

- **to achieve greater transparency and legal certainty**
 - compared to uncodified national reinsurance contract law, reinsurance practices as trade usages, (utmost) good faith
 - By this also simplifying the application of law

- **to fairly balance the interests of the parties reflecting modern developments** in (re-)insurance law

- **to intensify the scientific discourse on reinsurance law**
 - The PRICL-Project itself with its a worldwide network of legal scholars and practitioners
 - first scientific fruits in the form of numerous publications and Lectures as today

Thank you very much for your attention!