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***“COMMERCIAL LAW FROM A
EUROPEAN PERSPECTIVE:
BETWEEN OVERREGULATION AND DEREGULATION,
MANDATORY RULES AND PRIVATE ORDERING,
HARMONIZATION AND FLEXIBILITY”***

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Il non-consensual third party release: la prospettiva internazionale e italiana

This paper addresses the issue of third party release, i.e. the extinction of a creditor's claim against a non-debtor (for example, a guarantor or a co-obligor) as a consequence of the judicial approval of the principal debtor's restructuring proceedings, with particular attention to group-wide restructuring proceedings. It analyses the enforceability of such a solution (applied in the common law legal systems and provided for also in some European countries after the most recent reforms of insolvency law) in Italy, where the Crisis Code in force does not expressly allow the application of such a rule.