



Free movement of insolvency judgments within EU Member States

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EU Member States and Cross-Border Insolvency

Free movement of companies



Unified insolvency private international law



Free movement of judgments



Regulation 1346/2000

- Mutual trust
- Immediate recognition
- Extension of the effect
- Minimum non-recognition grounds
- Priority for *lis-pendens* cases
- Liquidator
 - automatic recognition of the appointment and the powers
 - powers related to the recognition
- No certificates, no compulsory publications

- Enforcement by reference to the Brussels Convention
- Advanced movement of preservation measures

Recast

- No need for major changes (Recital 1)
- National Courts: in favour of the *effet utile* of the automatic recognition
- Changes
 - Insignificant
 - Indirectly by amendments concerning the scope, the jurisdiction and the coordination;

Judgments opening insolvency proceedings - Art.19,§1 IRR

- Effective judgment – *no res judicata*
- 4 requirements – *Eurofood C-341/04*
 - Court of MS
 - In proceedings under Annex A
 - Divestment of the debtor
 - Liquidator/IP under Annex C
- *Art. 2, § 7 of IRR*
- *In practice*
 - by any interested party
 - certified copy of the original judgment/national certificate
 - translation possible
 - with other claims/requests or via plea or objection in course of pending proceedings
 - *Investigation of the recognising court*
 - *De lege*
 - *De facto*

Other judgments - Art.32, §1 IRR

- Aims:
 - Broadening the scope
 - Enforcement aspect
 - Conditioned under the recognition of the judgments for opening the insolvency proceeding
- Judgments – no definition, by subject matter
 - *the course and closure of insolvency proceedings, and compositions approved by that court - §1*
 - *deriving directly from the insolvency proceedings and which are closely linked with them - §2*
 - *preservation measures taken after the request for the opening of insolvency proceedings or in connection with it - §3*
- Recognition and enforcement

Public policy – Art. 33 IRR

- Traditional IPL exception
- Content
- Result

Good practices:

- Applicable to all insolvency judgments?
- How: ex officio or upon request



Thank you very much for
your attention!