Research project

EU International Insolvency Law and Third Countries: Which Way(s) Forward?

- Presently 40 registered participants from 25 countries: Europe, Africa, America, Asia, ...
- Basically an academic project, but including practitioners
- In cooperation with UNCITRAL, the European Commission and the Hague Conference on Private International Law. Other institutions?

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Project International Insolvency Law

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The Institute is honoured to host a new Project initiated at the Institute on

"EU International Insolvency Law and Third Countries: Which Way(s) Forward?"

The project brings together renowned scholars and legal practitioners from all over the world for research on how legal regulation might be improved as to cooperation between the EU and non-EU countries in insolvency matters. The present EU Insolvency Regulation 2000/2015 does not deal with third-country relations in a structured manner leaving many questions to the divergent laws of EU Member States. The consequence of this are uncertainties e.g. with regard to restructuring of globally acting companies. The purpose of the project is to conduct a joint research on how to improve this situation and if possible, to develop some legislative proposals for policy-makers in the EU or in other fora, e.g. UNCITRAL.

The project will start with a kick-off conference via ZOOM on 1 February 2022 (open to the interested public upon registration) and is planned for a duration of two years.

Here you find an open call for the project and the program of the 1 February 2022 conference.

Here is our press release of the 1 Feb. conference.

Further information will be made available here on a continuing basis.

Contact email for the project: infins@law.uni-kiel.de.
• **Perceived deficiencies of European Insolvency Regulation as to relations with non-EU countries**
  - No (uniform) recognition of insolvency proceedings conducted in non-EU countries
  - No cooperation with insolvency proceedings in non-EU countries
  - EU insolvency proceedings not tailored to take into account legal relationships with strong links to non-EU countries
  - EU Insolvency Regulation only weakly harmonized with UNCITRAL Model Law(s) on Cross-Border Insolvency
• **Divergent approaches of EU member States**

1) Is this a problem?
2) What should be changed?
Purpose of the project

• **Joint publication on the subject** (in 2024)
  • Publication type not purely academic, includes also practitioner-standard contributions.
  • Structured content: along the main lines of general questions, domestic proceedings (main/non-main proceedings), recognition of foreign proceedings, concurrent proceedings, corporate groups

• **Structured discussion process** in preparation of the publication: workshops (online or hybrid), 3 conferences (for kickoff, intermediate discussion and conclusion), continuing contacts and information exchange, project-related cloud, steering committee, working groups.

• **Recommendations?**
Main lines of content

• **General aspects:** Sphere of application? Which role for conflict of laws? Which role for discretion? Which types of legal instruments?

• **Domestic proceedings**, e.g. main proceedings, non-main proceedings (jurisdiction, conflict of laws, universality/territoriality etc.)

• **Effects (recognition) of foreign proceedings:** legal assistance model or recognition model? Prerequisites of recognition?

• **Concurrent proceedings:** specifics of cooperation?

• **Insolvency of corporate groups:** going beyond formal cooperation?

• **Uniform substantive insolvency law,** e.g. information of creditors, ADR, IT
Structure of the project

• Project is **policy-oriented**, but based on (positive and negative) **experience**

• Project is basically **academic**, but includes a significant number of **practitioners** (judges, insolvency practitioner etc.) from different jurisdictions

• Project has primary focus on future **legislative action in the EU**, but based on **intensive discussion with non-EU countries**: solutions must be generally acceptable – minimum standards → best practices

• Project should serve also as an element to support legislative activities in **other fora**, in particular UNCITRAL
• **1 Feb. 2022**: Kick-off conference (**1st conference**)  
  
• **Topics** may be proposed at any time (orientation by list of proposed topics available to all participants in the project)  
  
• **1 April 2022**: Determination of topics (with possibility for joining later)  
  
• **Workshops** (topics, dates) according to interest of participants  
  
• **31 October 2022**: submission of contributions (term extended first to 31 Dec. 2022, then to 31 March 2023, finally to time of Conference in October 2023)  
  
• **26-28 October 2023**: **Sum-up conference (2nd conference)** on results of the project work and conclusions  
  
• **Until 31 December 2023**: editorial work  
  
• **31 March 2024**: reflux from publisher to authors (proofs)  
  
• **30 June 2024**: proof correction and follow-up work by coordinators  
  
• **01 December 2024**: print  
  
• **December 2024 or early spring 2025**: book launch
Ideas for recommendations

For example:

• amendments to European Insolvency Regulation
• passing or amendment of other EU legislation (e.g. Directives); this might include legislation based on the UNCITRAL Model Law(s) on Cross-Border Insolvency
• Elaboration of an EU Model Treaty on Cross-Border Insolvency or bilateral treaties
• Proposals for more flexible harmonization of cross-border insolvency law on national level? E.g. on basis of UNCITRAL or EU legislative guide or „principles and rules“
Invitation to join the project

• Everybody with interest to participate in publication and experience in cross-border insolvency matters is welcome.
• We are still trying to complete the topics and broaden the regional scope of experience (e.g. Latin America, MENA region)
• Please contact one of the coordinators, e.g. through the email address of intins@law.uni-kiel.de
Thank you for your attention!