

CROSS-BORDER INSOLVENCY LAW IN EUROPE: PRESENT STATUS AND FUTURE PROSPECTS

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Summary

In May 2007 the European countries celebrated the first lustrum of the EU Insolvency Regulation (1346/2000). This article describes where Europe stands with its model which is based on well known theories of private international law for dealing with cross-border insolvencies. The EU Insolvency Regulation provides for a national court to exercise international jurisdiction to open insolvency proceedings. The basis for international jurisdiction is the debtor's "centre of main interests" or COMI. The two most important cases decided by the European Court of Justice (17 January 2006 *Staubitz Schreiber* and 2 May 2006 *Eurofood*) are discussed. The article further analyses the regulation's legal concept and its procedural context and explains that 'financial institutions' are not covered by the Insolvency Regulation, but by separate directives (2001/17; 2001/24). After having taken stock several suggestions are submitted for improvement of the system of cross-border insolvency in Europe.

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