

Cross-border insolvency in Serbia

- general overview -

Cross-border insolvency and the
use of UNCITRAL insolvency texts
in Serbia and the Balkans

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I. HISTORICAL DEVELOPMENT OF INTERNATIONAL INSOLVENCY RULES IN SERBIA

- 2004 Law on bankruptcy proceedings – the MLCBI has been enacted
- 2011 Law on bankruptcy – the same provisions, but with some linguistic improvements
- 2014 – new provisions have been introduced
 - Direct international jurisdiction
 - Definition of COMI; registered seat is presumed to be COMI; COMI is determined upon facts existing at the time of filing a request to open bankruptcy proceedings
 - Principle of universality for main bankruptcy proceedings and principle of territoriality for non-main bankruptcy proceedings...

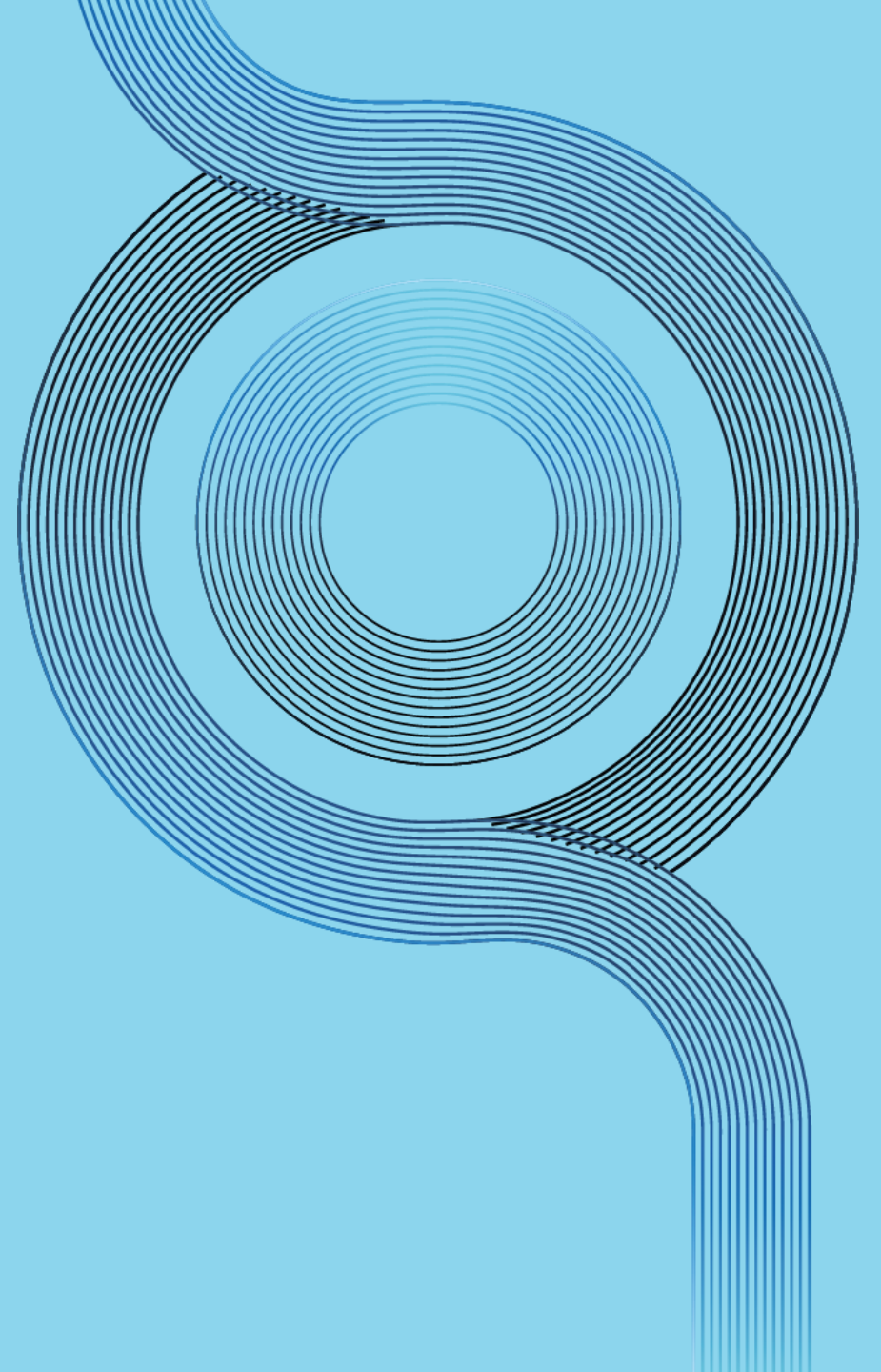
II. MAJOR PROBLEMS SINCE 2004

- Rare cases / lack of specific international insolvency knowledge
 - Many international insolvency cases with Montenegro, Croatia and Bosnia and Herzegovina, but without the use of a formal recognition procedure
- Guide to Enactment – unknown document for practitioners
- Cooperation and coordination as very unusual way of conducting bankruptcy proceedings for Serbian judges
- Incomplete international insolvency regulation (the MLCBI covers only certain, but not all international insolvency issues)
- Problems with non-main bankruptcy proceedings
 - Can independent non-main proceedings be opened in Serbia?
 - Place of assets as a condition for opening non-main bankruptcy proceedings
- Problems with bankruptcy of companies belonging to the same group of companies
- Foreign creditors are not adequately protected (sometimes foreign creditors try to abuse their rights)

III. FUTURE DEVELOPMENTS

- Interaction with the EU Insolvency Regulation
- Possible enactment of the UNCITRAL Model law on Enterprise Group Insolvency and the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments
- More education on international insolvency

CLOSING NOTE



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