

CROATIAN BANKRUPTCY/INSOLVENCY LAW AND UNCITRAL' TEXTS ON INSOLVENCY LAW

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

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Outline

- I. UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY – 1997
- II. UNCITRAL MODEL LAW ON RECOGNITION AND ENFORCEMENT OF INSOLVENCY-RELATED JUDGMENTS – 2018
- III. UNCITRAL MODEL LAW ON ENTERPRISE GROUP INSOLVENCY – 2019
- IV. Further steps

II. UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY – 1997

Croatia has had developed rules on international insolvency law since 1996
It contains all essential elements from the Model law, e.g.:

- grounds for recognition and refusal to recognize,
 - main and non-main proceedings,
 - COMI,
 - cooperation,
 - coordination of concurrent proceedings
 - Legal effects of recognition (e.g. provisional relief, the hotchpot rule).
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II. UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY – 1997

Article 1-32

Croatia as a Member State of the EU:

*application of the European Regulation on Insolvency Proceedings

Croatian autonomous international bankruptcy/insolvency law:

*There is no need for the formal implementation of the UNCITRAL' MLCBI, due to the fact that the Republic Croatia has very developed rules on international insolvency law since 1996, which contain all essential solutions of that Model law.

Bankruptcy Act from 1996 – Chapter X – International Bankruptcy
(Articles 301-335)

**Bankruptcy Act 2015 – Chapter XI – International Bankruptcy
(Articles 392-427)**

II. UNCITRAL MODEL LAW ON RECOGNITION AND ENFORCEMENT OF INSOLVENCY-RELATED JUDGMENTS - 2018

Croatia as a Member State of the EU:

*application of the European Regulation on Insolvency Proceedings – Articles 32-33

Croatian autonomous international bankruptcy/insolvency law:

Croatian Bankruptcy Act – Article 427

The provisions of this Act concerning the recognition of a foreign decision on the opening of bankruptcy proceedings shall apply accordingly to the recognition of a foreign decision on the approval of the compulsory settlement or the bankruptcy plan, as well as the recognition of a foreign decision appropriately rendered in any other similar proceedings.

The same shall apply to the recognition of preservation measures adopted pursuant to the application to open bankruptcy proceedings or any similar proceedings, as well as to any other decision rendered for the purpose of conducting and closing such recognised foreign proceedings.

Croatia has not yet implemented this Model Law.

III. UNCITRAL MODEL LAW ON ENTERPRISE GROUP INSOLVENCY - 2019

Croatia as a Member State of the EU:

*application of the European Regulation on Insolvency Proceedings – Articles 56-77

Croatian autonomous international bankruptcy/insolvency law:

***Croatian Bankruptcy Act** does not contain rules on enterprise group insolvency.

***Act on procedure of Extraordinary Management in Companies of Systematic Importance for the Republic Croatia – 2017**

-unfortunately, it did not take into account Part three of the Legislative Guide on Insolvency Law – Treatment of enterprise groups in insolvency

Croatia has not yet implemented this Model law.

IV. Further steps

-UNCITRAL MLCBI

-LEGISLATIVE GUIDE ON INSOLVENCY LAW - PART ONE AND TWO

**most of the legal solutions provided for in these texts have been contained in Croatian bankruptcy/insolvency law for many years*

-UNCITRAL MODEL LAW ON RECOGNITION AND ENFORCEMENT OF INSOLVENCY-RELATED JUDGMENTS

-UNCITRAL MODEL LAW ON ENTERPRISE GROUP INSOLVENCY

-LEGISLATIVE GUIDE ON INSOLVENCY LAW – PART THREE, FOUR AND FIVE

**legal solutions provided in these texts should be the starting point for the Croatian legislator in considering the further development of Croatian bankruptcy/insolvency law and preparing changes to that part of the Croatian legal system*

Practical problems in applying the rules of international insolvency law

- possible joint workshops for judges in Southeast Europe*
- possible joint workshops for insolvency practitioners in Southeast Europe*

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