**The scope *rationae materiae* of the *forum concursus***

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After having been questioned as to the characterisation of the centre of main interests within the meaning of the Insolvency Regulation, the court that has jurisdiction to contest this characterization, and then the relationship between main and secondary proceedings, the Court of Justice is now being increasingly questioned as to the applicability of the Insolvency Regulation itself.

Why does litigation today focuses on the interaction between the Brussel I bis regulation and the Insolvency regulation? The main difficulty lies in the criterion given by the Insolvency Regulation, according to which its applicability depend whether the actions “derive directly from insolvency proceedings and are closely connected with them”. Those words, that originated from the rapport Jenard, do not allow predictability of solutions. Another difficulty comes from the interpretation of the Court of Justice does not give clear evidence either of the relevant criterion.

The present paper intends to shed light on the reasons that should, *de lege feranda*, delimit the scope, *rationae materiae*, of the insolvency’s tribunal by investing the *ratio legis* for instituting a bankruptcy court. First and foremost, this court should have exclusive jurisdiction to judge the legal issues raised by the “internal order” of the procedure, i.e. the organs instituted for the purpose of the procedure. Here, the basis of the jurisdiction is the fact that the insolvency necessitates to create an organization to treat it; the bankruptcy court should concentrate all decisions relating to this organisation.

Second, when the organs instituted by the bankruptcy court are confronted to the external order of the procedure, a distinction has to be made. On the one hand, the bankruptcy court should be the only one competent as to the actions against the organs of the company; here, the *forum concursus* exercise the exclusive jurisdiction given, under the Brussel I Regulation, to the tribunal of the seat of the company when it is *in bonis*. Here, the reasons that allowed the creation of legal personality ceased to exist, and the bankruptcy court is the only one that should decide over the destiny of the persons that used to be protected by the veil of legal personality. This reveals the logical and chronological link between company law and insolvency law.

On the other hand, when confronted with the creditors, the bankruptcy court should has exclusive jurisdiction only if the provisions are truly part of the organisation of the procedure. Thus the type of revocatory action must be dealt with exclusively by the *forum concursus*. The debtor's creditors, who are the beneficiaries of the suspicious act, are fully involved in the insolvency proceedings, which were set up precisely in order to organise their cooperation. Consequently, the relationship between the organs of the proceedings and the creditors in respect of the proper organisation of the creditors’ contribution can only be described as internal to the organisation of the bankruptcy, unless the action in question is not intended to reconstitute the debtor's assets, but constitutes the ordinary exercise of an action for payment.