

The Reciprocal Effects between Austrian Insolvency Proceedings and Domestic and/or Foreign Arbitration Proceedings

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Questions to be examined:

1. What are the effects of an Austrian insolvency proceeding upon a pending arbitration proceeding between the debtor and a creditor? In particular, does the opening of the insolvency proceeding result in a stay of the arbitration proceeding, depending on whether
 - a) the arbitration is pending in Austria or
 - b) the arbitration is pending abroad?
2. Can an arbitration proceeding (either one already pending at the time of the opening of insolvency proceedings and/or one agreed but not yet pending at the time of the opening of insolvency proceedings) in connection with insolvency proceedings pending in Austria serve as a verification process for the verification of a creditor claim disputed in the insolvency proceedings?
3. Does it make a difference for question 2 whether the claim was disputed
 - a) by the debtor (not in self-administration)
 - b) by the insolvency administrator or
 - c) by another creditor?
4. Which law is applicable to the issues involved, namely
 - a) in accordance with the rules of the European Insolvency Regulation and
 - b) under the rules of autonomous Austrian international insolvency law?
5. What are the procedural consequences of the opening of insolvency proceedings and the (possible) function of the arbitration proceedings as a claims verification process in the arbitration proceedings, in particular regarding the designation of the defendant and the request for arbitration, depending on whether
 - a) the arbitration proceedings are pending in Austria or
 - b) the arbitration proceedings are pending abroad?
6. What effects does an arbitration award rendered in the arbitration proceedings have on the insolvency estate and the debtor
 - a) during the ongoing insolvency proceedings and
 - b) thereafter (declaratory effect; effect as enforceable title)?
7. Does it make a difference whether the Austrian insolvency proceedings are
 - a) bankruptcy proceedings aimed at liquidation or
 - b) reorganisation proceedings with or without self-administration?