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INSOLVENT GROUPS OF COMPANIES IN THE EUROPEAN UNION – OBJECTIVES OF ESTABLISHING GROUP COORDINATION PROCEEDINGS / Noémi Suri

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Abstract: *Before 26 June 2017, there was no single universal regulation governing the treatment of insolvency cases concerning groups of companies or certain members of a group in the European Union. The Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings defines the effective execution of insolvency proceedings at the different group members involved as the general objective of the legal source. The aim of my paper is to review the detailed rules of group coordination proceedings, during which I focus on the request for opening group coordination proceedings, on the possibility of defining which court has jurisdiction, on the review of the opt-out and opt-in rights related to group coordination proceedings and on the presentation of the powers assigned to the coordinator.*

Key words: *Insolvency proceedings of members of a group of companies; the legal status of the group of companies; the coordinator; the right of opt-out and opt-in; multilateral coordination mechanisms; commercial law; EU law; Hungary*

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1. INTRODUCTION

Before 26 June 2017, there was no single universal regulation governing the treatment of insolvency cases concerning groups of companies or certain members of a group in the European Union. The scope of the Council Regulation (EC) No. 1346/2000 of 29 May 2000 on Insolvency proceedings (hereinafter referred to as the "Insolvency Proceedings Regulation")[1] affected natural or legal person taxpayers (traders or private individuals) for whom it was deemed necessary to launch partial or complete divestment of insolvency proceedings involving the assignment of a liquidator.[2]

Based on the authorisation granted by the Article 46 of Insolvency Proceedings Regulation, a consultation mechanism was initiated on 30 March 2012 to execute the necessary amendments of insolvency rules. The so-called *Vienna-Heidelberg Report* (hereinafter referred to as the "Vienna-Heidelberg Report") (Hess, Oberhammer, & Pfeiffer,

[1] Official Journal of the European Communities. L 160/1. 30.6.2000.
[2] See Article 1 (1) Insolvency Proceedings Regulation.

2014), prepared by *Hess*, *Oberhammer* and *Pfeiffer* constituting the basis of this consultation, held it effective during the development of specific rules for groups to develop a system of rules which is based on respect towards the diversity of jurisdictions in the EU Member States and does not lead to a unification of civil substantive law (so-called „substantive consolidation") (Hess et al., 2014, p. 227; Oberhammer, Koller, Auernig, & Planitzer, 2017, p. 186).

Paragraph 51 of the Preamble to the recast regulation on insolvency published[3] in the EU Official Journal on 5 June 2015 defines the effective execution of insolvency proceedings at the different group members involved as the general objective of the legal source. The legal source aims to warrant this objective by establishing a system of rules based on cooperation and communication between the courts and the insolvency practitioners while implementing provisions ensuring coordinated insolvency proceeding(s) launched against all the business entities of group(s) of companies (Jaufer, 2017, p. 255). "The reform is based on a "procedural coordination" approach which respects each group member's separate legal identity" (Oberhammer et al., 2017, p. 185). When coordinating the proceedings of different fields, ensuring independence remains a general requirement.

2. THE LEGAL STATUS OF THE GROUP OF COMPANIES IN THE NEW REGULATION

The recast regulation determines the definition of group of companies under *definitions*: *"group of companies means a parent undertaking and all its subsidiary undertakings"*.[4] It must be considered a "parent undertaking" "[…] an undertaking which controls, either directly or indirectly, one or more subsidiary undertakings. An undertaking which prepares consolidated financial statements in accordance with the Directive 2013/34/EU of the European Parliament and of the Council (1) shall be deemed to be a parent undertaking."[5]

The parent undertaking needs to prepare consolidated financial statements if a.) has a majority of the shareholders' or members' voting rights in another undertaking (a subsidiary undertaking); b) has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another undertaking (a subsidiary undertaking) and is at the same time a shareholder in or member of that undertaking; c.) has the right to exercise a dominant influence over an undertaking (a subsidiary undertaking) of which it is a shareholder or member, pursuant to a contract entered into with that undertaking or to a provision in its memorandum or articles of association, where the law governing that subsidiary undertaking permits its being subject to such contracts or provisions.; d.) is a shareholder in or member of an undertaking, and controls alone, pursuant to an agreement with other shareholders in or members of that undertaking, a majority of shareholders' or members' voting rights in that undertaking.[6]

[3] Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on Insolvency proceedings. Official Journal of the European Communities. L 141/19. 5.6. 2015. (hereinafter referred to as the „EU Insolvency Regulation").
[4] See Article 2 (13) EU Insolvency Regulation.
[5] See Article 2 (14) EU Insolvency Regulation .
[6] Article 21(1) of the Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the Annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC.

The scope of the regulation covers only debtor groups of companies and members of groups whose centre of interest resides in the European Union.[7] The EU Insolvency Regulation does not define which groups of companies or members of groups are to be considered debtors, the same way as it does not set forth whether the legal status of "debtor" means the same as "an insolvent group of companies or an insolvent member of a group". In certain Member States "over-indebtedness in itself is not a condition for launching insolvency proceedings" (Veress, 2019, p. 15), therefore in my opinion, the definition of debtor groups of companies (or a group member) may only be applied to groups of companies (group members) against whom insolvency proceedings as defined in Annex A of this regulation have been initiated.

3. THE NATURE OF THE REGULATION

Rules on insolvent groups of companies in the EU Insolvency Regulation may be classified into two groups: 1. the focus of the so-called general part is the institutional system of cooperation mechanisms, 2. the special part contains the detailed rules of group coordination proceedings. According to *Mangano's* approach the general part consists of three blocks: a) duties of cooperation and communication; b) IPs' extra powers; c) protocols (2016, p. 286).

The provisions of the Articles 56-60 of the Regulation enforce decentralised coordination (Jaufer, 2017, p. 260) in the event of insolvency proceedings concerning two or more members of the same group. The cooperation mechanism can be divided into three levels: firstly, cooperation and communication between insolvency practitioners, secondly, cooperation and communication between courts, and thirdly, cooperation and communication between insolvency practitioners and the courts. In line with *Bornemann's* approach, this decentralised coordination is successful in avoiding shortcomings stemming from the inherent relationship of subordination between the main proceeding and the territorial proceedings (Bornemann, 2016, p. 176; Jaufer, 2017, p. 260). The rules in the Articles 56-58 set forth an obligation for cooperation between insolvency practitioners and the courts. It is important to note, that the cooperation between the courts and the insolvency practitioners shall not be aimed at realising goals which defy creditor interests, a resolution must be achieved in full consideration of the interests of the group (and interests within the group) (Jaufer, 2017, p. 261).

The Article 56 of the Regulation lays dawn the duty to cooperate for an insolvency practitioner (Wessels, 2017, p. 673). During coordination between insolvency practitioners three levels of cooperation obligations is specified by the regulation: a) duty to inform each other; b) coordination of administration and supervision over members of the group; c) development of a harmonised plan to restructure the business operation of the group and preparation and execution of the negotiations necessary thereto.[8] The new EU Insolvency Regulation authorised insolvency practitioners to transfer further rights to one practitioner selected from them to facilitate the measures prescribed by points b) and c) above, and to agree on the distribution of tasks, if the law of the Member State allows them to do so. The new EU Insolvency Regulation outlines the cooperation duties between insolvency practitioners only in terms of the content and not the form (verbal, written, formal conditions of agreement) (Jaufer, 2017, p. 261).

[7] Pursuant to Art. 3(1) of the EU Insolvency Regulation: „The centre of main interests shall be the place where the debtor conducts the administration of its interests on a regular basis and which is ascertainable by third parties. In the case of a company or legal person, the place of the registered office shall be presumed to be the centre of its main interests in the absence of proof to the contrary."

[8] See Article 56(2) of the EU Insolvency Regulation.

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During the cooperation and communication between the courts, achieving the goal of increased efficiency in administration through the harmonisation of certain territorial proceedings is paramount. Cooperational duties shall be fulfilled by all courts irrespective of whether the given court has already opened insolvency proceedings against two or more members of the group, or a request for opening such proceedings concerning another member of the group has been submitted at the given court. The new EU Insolvency Regulation also authorises courts to designate an independent person or body acting under their instructions to achieve such coordination.[9] The question arises whether this person can only be an insolvency practitioner as defined by the provisions of the regulation or other persons possessing adequate professional expertise can be authorised at the discretion of the courts. During communication between the courts, the principle of immediacy is mandatory,[10] which, in my view, calls upon the application of the rules of the Regulation on serving judicial and extrajudicial documents in civil or commercial matters.[11] The content of the cooperation between courts is defined in detail by the legal source: coordination during the appointment of insolvency practitioners; exchange of information; coordination of the administration and supervision of the group members' assets and affairs; coordination of hearings, and the approval of protocols.

The base for the cooperation obligation between insolvency practitioners and the courts is created in all cases by a proceeding already opened or requested to be opened by a submission against a second member belonging to the same group of companies. Beside the principle of efficiency, the issues of the compatibility of the legal systems of the involved Member States as well as the conflicts of interests, incompatibility stemming from conflicts of interests also arise during cooperation between the insolvency practitioners and the courts.

The Article 60 of the new legal source grants the following special powers to insolvency practitioners in proceedings concerning members of a group of companies (so called IPs' extra powers) (Mangano, 2016, p. 287): 1.) in order to facilitate the administration and the efficiency of proceedings, the insolvency practitioner may be heard in any of the proceedings opened against any other member of the same group.[12] According to *Jaufer* this right to be heard also entails ensuring the right to make recommendations (2017, p. 262). 2.) The right of intervention: requesting a stay of enforcement actions, including any measures related to the realisation of assets, 3.) preparation of a restructuring plan to re-establish the group member's solvency and carry out the necessary measures to the adequate enforcement of the restructuring plan, 4.) requesting the opening of group coordination proceedings. The court shall adopt a resolution on the stay of enforcement actions, during which it has to hear the insolvency practitioner. The suspension of the partial or full realisation of the assets may last no longer than three months, during which the court may order the insolvency practitioner to take every adequate step prescribed by the law of the Member State – such as

[9] See Article 57(1) of the EU Insolvency Regulation.
[10] See Article 57(2) of the EU Insolvency Regulation.
[11] Regulation (EC) No 1393/2007 of the European and of the Council of 13 November 2007 on the Service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000. Official Journal of the European Communities. L 324/79. 10.12.2007.
[12] According to Wessels this "provision does not establish any special procedure, the procedural details are governed by the respective lex fori concurus" (2017, p. 681).

insurance measures – and deemed necessary to enforce the rights of the creditors involved in the proceedings.[13]

4. INSOLVENCY PROCEEDINGS OF MEMBERS OF A GROUP OF COMPANIES

The special part of the provisions related to insolvent groups of companies comprises the rules of group coordination proceedings. The condition for opening the proceedings, added as a new element to the revamped insolvency regulation, is the declared state of insolvency of a group member (Jaufer, 2017, p. 261). The rules set forth in the regulation regarding group coordination proceedings aim at the establishment of so-called multilateral coordination mechanisms (Jaufer, 2017, p. 264), which presuppose the coordination of at least two main proceedings opened in different Member States (Jaufer, 2017, p. 264). During the proceedings, besides enforcing the principle of efficiency, one rule in the Preamble paragraphs must also be highlighted, namely the one requesting respect for the separate legal personality of the individual group members (Oberhammer et al., 2017, p. 185).[14] Group coordination proceedings are divided into two phases by the new EU Insolvency Regulation. The first phase focuses on coordination, which means determination of the conditions for opening the proceedings, the relevant regulation on jurisdiction, the insolvency practitioners' right to lodge objections, the resolution ordering the group coordination proceedings and the institution of the group coordination plan. The second phase concentrates on the activities of the coordinator. In addition to the powers of the coordinator, this phase also outlines the basic coordination obligations between the coordinator and the insolvency practitioners.

The aim of my paper is to review the detailed rules of group coordination proceedings, during which I focus on the request for opening group coordination proceedings, on the possibility of defining which court has jurisdiction, on the review of the opt-out and opt-in rights related to group coordination proceedings and on the presentation of the powers assigned to the coordinator.

4.1 Details of the procedure

4.1.1 Initiation of proceedings

It can be safely stated along with the new EU Insolvency Regulation, that group coordination proceedings are mechanisms of cooperation the ordering of which falls under the jurisdiction of a court in a non-contentious proceeding opened upon request. The proceeding is in all cases initiated at the request of the insolvency practitioner appointed for an insolvency proceeding opened with regard to a member of a group of companies.[15]

The regulation "does not contain any rules specifically devoted to the international jurisdiction of companies belonging to a group" (Mangano, 2016, p. 282). According to my opinion the regulation prescribes one general and one special rule among the jurisdiction rules related to the opening of group coordination proceedings. The Article 61 defines as general head of jurisdiction the insolvency practitioner's

[13] Pursuant to Article 60(2) of the EU Insolvency Regulation: „The court may extend the duration of the stay by such further period or periods as it considers appropriate and which are compatible with the rules applicable to the proceedings, provided that the conditions referred to in points (b)(ii) to (iv) of paragraph 1 continue to be fulfilled and that the total duration of the stay (the initial period together with any such extensions) does not exceed 6 months."

[14] See also Para. 51 of the Preamble of the EU Insolvency Regulation.

[15] See Article 61(1) of the EU Insolvency Regulation.

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submission of a request to open a group coordination proceeding at any courts having jurisdiction over the insolvency proceedings initiated against a member of the group concerned. In the event of parallel proceedings opened in line with this jurisdiction rule, the prevention rule prescribes that the court at which the request was filed first will have jurisdiction to decide on the opening of the group coordination proceeding.[16] *Wessels* evaluated this rule as such the priority rule means "that only the time element is decisive, not the fact that the request itself it contains is sufficient grounds or is inadmissible" (2017, p. 688).

Besides general jurisdiction, the Article 66 determines the institution of the choice of court as an exclusive head of jurisdiction: the insolvency practitioners appointed to carry out insolvency proceedings against the group members may initiate the proceeding in front of the most adequate forum based on a request written by or confirmed in writing by two-thirds of the insolvency practitioners.[17] In this respect the question may arise: what aspects do or may the insolvency practitioners consider when determining which Member State court is "the most adequate" to decide on the opening of the group coordination proceeding?. I believe, in this regard the following factors may be equally decisive: the main centre of interest of the debtor group of companies, the number of subsidiaries of the debtor group of companies seated in the given Member State(s), the location of the group's assets (rights and concessions), the regular place of residency of the main creditors of the group. In terms of the choice of jurisdiction, the request to open group coordination proceedings shall be submitted at the court having exclusive jurisdiction over the proceedings. The court having jurisdiction based on the general jurisdiction rule has to decline jurisdiction in favour of the court of choice pursuant to Section 3 of the Article 66. From this rule one can draw the conclusion that courts having jurisdiction based on the general head of jurisdiction may not review the choice - of whether the most adequate forum was indeed determined - in effect, since if the request complies with the rules of the Articles 61 and 66, they must decline jurisdiction.

Concerning the request for opening group coordination proceedings, the regulation sets the direction of submitting the request, on the one hand, and defines its mandatory attachments on the other. With regard to submitting the request, Section 2 of the Article 61 specifies the applicable law as the law of the Member State under which the insolvency practitioner was appointed. Consequently, it bears no significance in which Member State the request was filed (Jaufer, 2017, p. 264), and the determination of the applicable law by the regulation may lead to the application of a foreign law both for the court having jurisdiction and for the requesting person (i.e. the insolvency practitioner). Regarding the content of the request the regulation only specifies minimum rules (Bornemann, 2016, p. 216): a) recommendation on the person of the group coordinator (which includes documentation certifying the suitability and qualifications of the coordinator as well as a written statement from the coordinator assuming the task); b) the outline of the recommended group coordination proceeding; c) the list of appointed insolvency practitioners for the group members concerned and the competent courts and other authorities having jurisdiction over the insolvency proceedings concerning the group members; and d) cost estimates of the group coordination broken down by the individual members of the group.[18]

[16] See Article 62 of the EU Insolvency Regulation.
[17] When interpreting this part of the regulation, it can be stated that if carrying out the proceedings in front of the most adequate forum is a requirement, by insolvency practitioners we refer to the insolvency practitioners appointed for both the main proceedings and the territorial proceedings.
[18] See Article 61(3) of the EU Insolvency Regulation.

4.1.2 Establishing group coordination proceedings

After receiving the request, the court having jurisdiction over opening the group coordination proceeding must examine the following in effect: a.) whether the group coordination proceeding is indeed an efficient treatment of the insolvency proceeding(s) concerning the individual members of the group, b.) whether one of the creditors of the group members involved in the proceedings is to become negatively affected in financial terms because of the involvement of the given group member in the proceeding, and c.) whether the nominated coordinator complies with the requirements set forth in the regulation.[19] If the request is in accordance with the conditions defined in Section (1) of the Article 63 of the EU Insolvency Regulation, the court must notify the insolvency practitioners appointed for the group members about the request to an open group coordination proceeding and the nominated coordinator.

Section (4) of the Article 63 of the new EU Insolvency Regulation declares, that (Member State) insolvency practitioners must be provided with the opportunity to present their opinion on the group coordination proceeding. Firstly, insolvency practitioners may raise objections against opting the main and/or territorial insolvency proceedings in the group coordination proceeding (right of opt-out and opt-in), secondly, they may object to the insolvency practitioner nominated for coordinator.[20] Lodging an objection may be carried out within 30 days of receiving the court notification on the form prescribed in the Article 88 of the Regulation. The court attaches different legal consequences for the different objections: while exercising the right of opting out excludes participation in the group coordination proceeding, objection against the person of the coordinator does not necessarily result in exclusion from the coordination mechanism, and is not an objection against the group coordination proceeding itself (Jaufer, 2017, p. 265). If the insolvency practitioner raises an objection against the inclusion of a given insolvency proceeding in the group coordination proceeding, the insolvency proceeding is not included in the group coordination proceeding, the scope of the group coordination proceeding (including the costs thereof) shall not be extended to the given insolvency proceeding. In my opinion, the regulation leaves the door open for the Member State law with regard to the decision on the right to opt out or opt in when it stipulates as some kind of framework rule that the insolvency practitioner must obtain all approvals of the inclusion or exclusion in the coordination prescribed by the Member State law.

If the insolvency practitioner lodges an objection against the person of the coordinator, and at the same time does not object against including the given insolvency proceeding in the group coordination proceeding, then, pursuant to the Article 67, the court may request the insolvency practitioner to submit a new request for the initiation of group coordination proceeding. An objection against the person of the coordinator – a "constructive objection" as referred to by Bonnemann (2016, p. 219) – does not exclude the opening of a group coordination proceeding for the group of companies concerned, but, based on the Article 67, the insolvency practitioner lodging the objection must practically initiate a new proceeding in harmony with Section 3 of the Article 61 of the new EU Insolvency Regulation.

Upon reviewing the regulation on objections, it can be safely stated that, whereas an objection to the person of any coordinator by an insolvency practitioner blocks the opening of a group coordination proceeding, objection against involving a certain

[19] According to the Article 71: "*1. The coordinator shall be a person eligible under the law of a Member State to act as an insolvency practitioner. 2. The coordinator shall not be one of the insolvency practitioners appointed to act in respect of any of the group members, and shall have no conflict of interest in respect of the group members, their creditors and the insolvency practitioners appointed in respect of any of the group members.*"
[20] See Article 64(1) EU Insolvency Regulation.

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insolvency proceeding in the group coordination proceeding has no suspending[21] or delaying effect[22] on the coordination process itself. One piece of criticism may be raised against the regulation saying that Section (2) of the Article 64 defines a due date for submitting objections, but it fails to govern, thus does not set time limits on the initiation of the new proceeding.[23]

4.1.3 Ordering the opening of a proceeding

If the deadline for filing objections elapses, and the request complies with the requirements outlined in Section (3) of the Article 61 of the new EU Insolvency Regulation, the court may pass a decision to open a group coordination proceeding. Section (1) of the Article 68 of the new EU Insolvency Regulation provides an itemised list of the content of the court decision opening the group coordination proceeding,[24] but it does not specify a normative deadline for reaching such a decision. The decision on an opening group coordination proceeding shall be sent to the coordinator and the insolvency practitioner participating in the coordination with opting in rights. The regulation does not govern the issue of legal remedy/remedies against the decision, so based on Reinhart's position (2016, p. 9) I believe that Member State regulations are governed with regard to legal remedies.

4.2 Conducting of the insolvency proceedings of members of a group of companies and the activities of the coordinator

In fact, group coordination proceedings are cooperational mechanisms based on continuous exchange of information between the coordinator and the insolvency practitioners of the Member States, and they are aimed at reorganising the insolvent group of companies, thus restoring the group's solvency, economic performance and financial stability. In my view, the new regulation on insolvency proceedings does not create unified insolvency proceedings applicable throughout the European Union and superior to the Member State proceedings by establishing the institution of group coordination proceedings,[25] but through inclusion in insolvency proceedings it facilitates solutions for the legal position of insolvent groups or groups on the verge of insolvency by mean of a framework of harmonised coordination mechanisms between the group of companies and the specific group members without infringing on the interests of the specific group members and the creditors.

The coordinators' activities constitute the centre of the group coordination proceedings and the coordination mechanisms. The Article 71 of the regulation defines the conditions prescribed for the coordination proceedings, whereas the Article 72 provides an itemised list of the coordinator's responsibilities and powers. In my opinion, the powers of the coordinator may be divided into three groups: 1. coordination of

[21] In my opinion, an objection against the coordinator excludes the opening of the coordination altogether if no request to initiate a new group coordination proceeding is submitted.
[22] Until a request for a new group coordination proceeding is filed.
[23] Pursuant to the Article 67 of the EU Insolvency Regulation the court may appoint the insolvency practitioner filing the request by way of exercising its right of discretion.
[24] The court with jurisdiction over ordering group coordination proceedings nominates the coordinator in its decision, decides on the course and cost estimates of the proceedings, as well as on the distribution of costs among the members concerned. See Article 68(1) of the EU Insolvency Regulation
[25] Paragraph (22) of the Preamble to the new EU Insolvency Regulation determines that, owing to the different material legislation of the Member States, no unified EU-wide insolvency proceedings with a universal scope can be established, which, in my view, can be reiterated after careful consideration of the system of rule pertaining to group coordination proceedings too.

Member State insolvency proceedings: identifying and outlining in broad terms the recommendations for a harmonised conduct of insolvency proceeding(s) through cooperation with insolvency practitioners,[26] 2. restructuring the solvency of the group of companies to which the development of a group coordination plan in the central,[27] and 3. participation in Member State insolvency proceedings in which the coordinator is entitled to take part, speak in any proceedings concerning the group or any of its members and request the suspension of such proceedings.[28]

Beyond the tasks defined in Article 72 of the EU Insolvency Regulation, coordinators have a central role in the subsequent inclusion of insolvency proceedings in group coordination proceedings. The regulation provides grounds for insolvent groups of companies to join in the cooperation mechanism following the ordering of the group coordination proceeding. The legal source defines two types of cases for subsequent inclusion: i) if the insolvency practitioner lodges an objection against the inclusion of the given insolvency proceeding in the group coordination proceeding in the initiating phase of a group coordination proceeding (i.e. in the case of opt-out), ii) if an insolvency proceeding concerning the group of companies was opened after the ordering of the group coordinating proceeding. The coordinator makes a decision on subsequent inclusion following consultations with the affected insolvency practitioners. One condition for subsequent inclusion is the unilateral support of all the insolvency practitioners.[29]

The activities of the coordinator are defined by the court, which they shall carry out during a defined term under judicial supervision and for a set fee. Having completed their tasks, the coordinators shall prepare a final statement of costs (Wessels, 2017, p. 730),[30] which shall be submitted to the court ordering the group coordination proceedings and sent to all the insolvency practitioners. If the coordinator becomes undeserving of carrying out the tasks (owing to conduct causing damage to creditors; non-performance of the tasks assigned in the court decision), the court may withdraw the nomination ex officio or at the request of an insolvency practitioner.

5. SUMMARY

From December 2012, a change of concept can be traced to the European Commission's insolvency proceedings, consultation and legislative initiatives in this field at the EU level: The Commission's interest has shifted from winding-up proceedings to preventive restructuring proceedings. Following a review of the EU legislation on groups of companies and individual group members, I believe that the new Insolvency Regulation, in line with the objectives set out in the Preamble to the source and the group coordination procedure (in particular the institution of the group coordination plan), can be considered as new evidence, which in a broad sense can be classified as a reorganization procedure, in a narrower sense it can be assessed as a cooperation mechanism that facilitates and supports reorganization proceedings.

Consequently, the group coordination proceedings are cooperational mechanisms based on continuous exchange of information between the coordinator and

[26] See Article 72(1,2b) of the EU Insolvency Regulation.
[27] The group coordination plan is a package of measures prepared by the coordinator with the aim of restoring the financial stability of the group members, to resolve the group members' insolvency, and settle and facilitate lawsuits or out-of-court settlements and foster agreements between the insolvency practitioners of the group members.
[28] See Article 72(2a,2e) of the EU Insolvency Regulation.
[29] See Article 69(2b) EU Insolvency Regulation.
[30] The regulation does not prescribe a specific form of the statement.

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the insolvency practitioners of the Member States, and they are aimed at reorganising the insolvent group of companies, thus restoring the group's solvency, economic performance and financial stability. In my view, the new regulation on insolvency proceedings does not create unified insolvency proceedings applicable throughout the European Union and superior to the Member State proceedings by establishing the institution of group coordination proceedings, but through inclusion in insolvency proceedings it facilitates solutions for the legal position of insolvent groups or groups on the verge of insolvency by mean of a framework of harmonised coordination mechanisms between the group of companies and the specific group members without infringing on the interests of the specific group members and the creditors.

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