

BANKRUPTCY TOURISM IN EUROPE AND THE UNITED STATES

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Although we have made great progress in recent years in overcoming parochialism in cases involving the bankruptcy of multinational corporations, that progress has inevitably created some new problems. The availability of increased recognition and cooperation in such cases has tempted debtor corporations to file their principal bankruptcy cases in jurisdictions outside their home countries. Not only do such proceedings often disappoint the legitimate expectations of their creditors and other stakeholders, but they create pressures to attract the substantial revenues involved in administration of cases of that sort, especially for professionals. A further consequence is the specter of bankruptcy “havens,” often in the same countries which are regarded as havens for tax and bank secrecy purposes. Even where jurisdictions have a legitimate interest in the outcome of these proceedings, this sort of forum shopping tends to produce a race to the bottom in important respects and to undermine support for international cooperation generally. The solutions to these problems are still to be fully worked out, but this paper analyses the strengths and weaknesses of some possible approaches.