

## **Insolvency proceedings: new rules to promote economic recovery**

The Council approved a political agreement reached with the European Parliament on new EU-wide rules on insolvency proceedings ([15414/14](#) + [ADD 1](#)).

The new rules are aimed at making cross-border insolvency proceedings more efficient and effective, benefiting debtors and creditors, facilitating the survival of businesses and presenting a second chance for entrepreneurs. They also bring the current insolvency regulation into line with developments in national insolvency laws introduced since its entry into force in 2002.

Figures provided by the European Commission show that, every year in the European Union, these proceedings affect an estimated 200 000 businesses, meaning that 1.7 million jobs are at stake. One quarter of these insolvency proceedings have a cross-border element.

Minister Orlando, Italian Minister for Justice and President of the Council, said: “The agreement with the European Parliament on this important file is another achievement of the Italian Presidency and underpins the wider EU strategy to promote economic recovery and sustainable growth. The new legislation, through the protection of creditors and the survival of business, will contribute to the preservation of employment in these challenging times”.

### **Scope**

The scope of the regulation has been extended to go further than the liquidation proceedings already covered by the current regulation. The new rules also cover:

- proceedings which provide for the restructuring of a debtor at a stage where there is only a likelihood of insolvency
- proceedings which leave the debtor fully or partially in control of his assets and affairs
- proceedings providing for a debt discharge or a debt adjustment of consumers and self-employed persons.

### **Jurisdiction for opening insolvency proceedings**

The new regulation improves the procedural framework for determining jurisdiction. The concept of centre of main interest is further clarified to provide useful guidance to all those concerned and increase legal certainty. Moreover, the new rules contain a set of safeguards aimed at preventing abusive forum shopping.

## **Secondary proceedings**

The regulation sets out specific situations in which the court seized with a request to open secondary proceedings should be able to postpone or refuse the opening of such proceedings. The court can do so on request of the insolvency practitioner in main proceedings.

A number of rules of cooperation and communication between the actors involved in the main and in the secondary proceedings are also added.

## **Insolvency registers**

Member states will be required to publish relevant information in cross-border insolvency cases in a publicly accessible electronic register. This will improve the information of creditors and courts involved and will prevent the opening of parallel insolvency proceedings.

The insolvency registers will be interconnected via the e-Justice portal to facilitate access to that information for creditors and courts located in other member states.

## **Groups of companies**

The regulation contains a set of procedural rules aimed at ensuring the efficient administration of insolvency proceedings relating to different companies forming part of a group of companies.

## **Next steps**

The text of the agreement will now be revised by the legal-linguists. To come into effect, the text still needs to be formally approved by the Council and the Parliament.

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