



**2016/0359(COD)**

02.6.2017

# **AMENDMENTS**

## **18 - 298**

**Draft opinion**

**Edouard Martin**

(PE601.220v02-00)

on the proposal for a Directive of the European Parliament and of the Council on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/30/EU

Proposal for a directive

(COM(2016)0723 – C8-0475/2016 – 2016/0359(COD))

AM\_Com\_LegOpinion

**Amendment 18**  
**Paloma López Bermejo**

**Proposal for a directive**  
**Recital -1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(–1) All workers should have the right to protection of their claims in the event of the insolvency of their employer, as set out in the European Social Charter.***

Or. en

**Amendment 19**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

*Amendment*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, ***which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance.*** This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, ***with due regard for the rules laid down by the Member States.*** This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating ***and to preserve as many jobs as possible in the undertakings concerned and in the supplier businesses to which they are in debt, but also*** that honest over indebted entrepreneurs have a second chance after a

restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

Or. fr

## **Amendment 20**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

### **Proposal for a directive**

#### **Recital 1**

##### *Text proposed by the Commission*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

##### *Amendment*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises ***and individual debtors acting in good faith, consumers and users*** in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating ***or, as appropriate, which enable them to maintain access to fundamental public and private goods and services, such as the supply of energy, heating and water, and to maintain decent housing, with a guarantee that they can keep minimum financial means so that they are able to maintain decent levels of subsistence***; that honest over indebted entrepreneurs, ***consumers and users*** have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to

shortening their length.

Or. es

## **Amendment 21**

**Maria Arena**

### **Proposal for a directive**

#### **Recital 1**

##### *Text proposed by the Commission*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

##### *Amendment*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating *while contributing as fully as they would in the event of liquidation to satisfying the creditors' claims*; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

Or. fr

## **Amendment 22**

**Claudiu Ciprian Tănăsescu**

### **Proposal for a directive**

#### **Recital 1**

*Text proposed by the Commission*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

*Amendment*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating, ***without prejudice to workers' fundamental rights and freedoms***; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

Or. ro

**Amendment 23**  
**Verónica Lope Fontagné**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to

*Amendment*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to

effective national preventive restructuring frameworks which enable them to continue operating; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

effective national preventive restructuring frameworks which enable them to continue operating ***and thereby reduce avoidable job losses***; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

Or. es

**Amendment 24**  
**Heinz K. Becker**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

*Amendment*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating; ***that creditors receive a maximised dividend***; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

Or. de

**Amendment 25**  
**Enrique Calvet Chambon, Robert Rochefort**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) The objective of this Directive is to **remove** obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

*Amendment*

(1) The objective of this Directive is to **contribute to the proper functioning of the internal market by removing** obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring, insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

Or. fr

**Amendment 26**  
**Maria Arena, Edouard Martin**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring,

*Amendment*

(1) The objective of this Directive is to remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures on preventive restructuring,



insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length.

insolvency and second chance. This Directive aims at removing such obstacles by ensuring that viable enterprises in financial difficulties have access to effective national preventive restructuring frameworks which enable them to continue operating; that honest over indebted entrepreneurs have a second chance after a full discharge of debt after a reasonable period of time; and that the effectiveness of restructuring, insolvency and discharge procedures is improved, in particular with a view to shortening their length. ***Preventive solutions, sometimes called ‘pre-pack’, are a feature of a growing trend in modern insolvency law towards favouring approaches which, unlike the traditional approach of liquidating a business which is in crisis, have the aim of restoring it to health or at least salvaging those of its units that are still economically viable. That practice is praiseworthy and often helps to preserve jobs.***

Or. fr

## **Amendment 27**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

### **Proposal for a directive**

#### **Recital 2**

##### *Text proposed by the Commission*

(2) Restructuring should enable enterprises in financial difficulties to continue business in whole or in part, by changing the composition, conditions or structure of assets and liabilities or of their capital structure, including by sales of assets or parts of the business. Preventive restructuring frameworks should above all enable the enterprises to restructure at an early stage ***and to avoid their insolvency***. Those frameworks should maximise the total value to ***creditors***, owners and the economy as a whole and should prevent

##### *Amendment*

(2) Restructuring should enable enterprises in financial difficulties ***for which they are not responsible*** to continue business in whole or in part, by changing the composition, conditions or structure of assets and liabilities or of their capital structure, including by sales of assets or parts of the business. Preventive restructuring frameworks should above all enable the enterprises to restructure at an early stage. Those frameworks should maximise the total value to owners and the economy as a whole and should prevent

unnecessary job losses and losses of knowledge and skills. ***They should also prevent the build-up of non-performing loans.*** In the restructuring process the rights of all parties involved should be protected. ***At the same time, non-viable businesses with no prospect of survival should be liquidated as quickly as possible.***

unnecessary job losses and losses of knowledge and skills. In the restructuring process the rights of all parties involved should be protected.

Or. fr

## Amendment 28

Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz

### Proposal for a directive

#### Recital 2

##### *Text proposed by the Commission*

(2) Restructuring should enable enterprises in financial difficulties to continue business in whole or in part, by changing the composition, conditions or structure of assets and liabilities or of their capital structure, including by sales of assets or parts of the business. Preventive restructuring frameworks should above all enable the enterprises to restructure at an early stage and to avoid their insolvency. Those frameworks should maximise the total value to creditors, owners and the economy as a whole and should prevent unnecessary job losses and losses of knowledge and skills. They should also prevent the build-up of non-performing loans. In the restructuring process the rights of all parties involved should be protected. At the same time, non-viable businesses with no prospect of survival should be liquidated as quickly as possible.

##### *Amendment*

(2) Restructuring should enable enterprises ***and consumers*** in financial difficulties to continue business in whole or in part, ***and ensure that they can maintain decent levels of subsistence***, by changing the composition, conditions or structure of assets and liabilities or of their capital ***or property*** structure, including by sales of assets, ***property*** or parts of the business. Preventive restructuring frameworks should above all enable the enterprises ***and individual consumers*** to restructure at an early stage and to avoid their insolvency. Those frameworks should maximise the total value to creditors, owners and the economy as a whole and should prevent ***both*** unnecessary job losses and losses of knowledge and skills, ***and an increase in poverty and risk of exclusion among honest over-indebted consumers who are not entrepreneurs***. They should also prevent the build-up of non-performing loans ***and debts***. In the restructuring process the rights of all parties involved should be protected, ***especially those of particularly vulnerable individuals at risk of falling into poverty***

*or social exclusion*. At the same time, non-viable businesses with no prospect of survival should be liquidated as quickly as possible.

Or. es

## **Amendment 29**

**Karima Delli**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 2**

*Text proposed by the Commission*

(2) Restructuring should enable enterprises in financial difficulties to continue business in whole or in part, by changing the composition, conditions or structure of assets and liabilities or of their capital structure, including by sales of assets or parts of the business. Preventive restructuring frameworks should above all enable the enterprises to restructure at an early stage and to avoid their insolvency. Those frameworks should maximise the total value to creditors, owners and the economy as a whole ***and should prevent unnecessary job losses and losses of knowledge and skills***. They should also prevent the build-up of non-performing loans. In the restructuring process the rights of all parties involved should be protected. At the same time, non-viable businesses with no prospect of survival should be liquidated as quickly as possible.

*Amendment*

(2) Restructuring should enable enterprises in financial difficulties to continue business in whole or in part, by changing the composition, conditions or structure of assets and liabilities or of their capital structure, including by sales of assets or parts of the business. Preventive restructuring frameworks should above all enable the enterprises to restructure at an early stage and to avoid their insolvency. Those frameworks should ***prevent job losses and loss of knowledge and skills*** and maximise the total value to creditors, owners and the economy as a whole. They should also prevent the build-up of non-performing loans. In the restructuring process the rights of all parties involved should be protected. At the same time, non-viable businesses with no prospect of survival should be liquidated as quickly as possible.

Or. en

## **Amendment 30**

**Maria Arena**

### **Proposal for a directive**

#### **Recital 2**

*Text proposed by the Commission*

(2) Restructuring should enable enterprises in financial difficulties to continue business in whole or in part, by changing the composition, conditions or structure of assets and liabilities or of their capital structure, including by sales of assets or parts of the business. Preventive restructuring frameworks should above all enable the enterprises to restructure at an early stage and to avoid their insolvency. Those frameworks should maximise the total value to creditors, owners and the economy as a whole and should prevent unnecessary job losses and losses of knowledge and skills. They should also prevent the build-up of non-performing loans. In the restructuring process the rights of all parties involved should be protected. At the same time, non-viable businesses with no prospect of survival should be liquidated as quickly as possible.

*Amendment*

(2) Restructuring should enable enterprises in financial difficulties to continue business in whole or in part, by changing the composition, conditions or structure of assets and liabilities or of their capital structure, including by sales of assets or parts of the business, ***if those operations, like the liquidation of assets, also contribute to the satisfaction of creditors' claims.*** Preventive restructuring frameworks should above all enable the enterprises to restructure at an early stage and to avoid their insolvency.

Those frameworks should ***even*** maximise the total value to creditors ***in comparison with that which they would receive in the event of the liquidation of assets,*** owners and the economy as a whole and should prevent unnecessary job losses and losses of ***operations,*** knowledge and skills. They should also prevent the build-up of non-performing loans. In the restructuring process the rights of all parties involved should be protected, ***including those of workers.*** At the same time, non-viable businesses with no prospect of survival should be liquidated as quickly as possible.

Or. fr

**Amendment 31**  
**Claudiu Ciprian Tănăsescu**

**Proposal for a directive**  
**Recital 2**

*Text proposed by the Commission*

(2) Restructuring should enable enterprises in financial difficulties to continue business in whole or in part, by changing the composition, conditions or structure of assets and liabilities or of their capital structure, including by sales of

*Amendment*

(2) Restructuring, ***the result of appropriate and viable expert reports,*** should enable enterprises in financial difficulties to continue business in whole or in part, by changing the composition, conditions or structure of assets and

assets or parts of the business. Preventive restructuring frameworks should above all enable the enterprises to restructure at an early stage and to avoid their insolvency. Those frameworks should maximise the total value to creditors, owners and the economy as a whole and should prevent unnecessary job losses and losses of knowledge and skills. They should also prevent the build-up of non-performing loans. In the restructuring process the rights of all parties involved should be protected. At the same time, non-viable businesses with no prospect of survival should be liquidated as quickly as possible.

liabilities or of their capital structure, including by sales of assets or parts of the business. Preventive restructuring frameworks should above all enable the enterprises to restructure at an early stage and to avoid their insolvency. Those frameworks should maximise the total value to creditors, owners and the economy as a whole and should prevent unnecessary job losses and losses of knowledge and skills. They should also prevent the build-up of non-performing loans. In the restructuring process the rights of all parties involved should be protected. At the same time, non-viable businesses with no prospect of survival should be liquidated as quickly as possible.

Or. ro

## **Amendment 32** **Verónica Lope Fontagné**

### **Proposal for a directive** **Recital 2**

#### *Text proposed by the Commission*

(2) Restructuring should enable enterprises in financial difficulties to continue business in whole or in part, by changing the composition, conditions or structure of assets and liabilities or of their capital structure, including by sales of assets or parts of the business. Preventive restructuring frameworks should above all enable the enterprises to restructure at an early stage and to avoid their insolvency. Those frameworks should maximise the total value to creditors, owners and the economy as a whole and should prevent unnecessary job losses and losses of knowledge and skills. They should also prevent the build-up of non-performing loans. In the restructuring process the rights of all parties involved should be protected. At the same time, non-viable

#### *Amendment*

(2) Restructuring should enable enterprises in financial difficulties to continue business in whole or in part, by changing the composition, conditions or structure of assets and liabilities or of their capital structure, including by sales of assets or parts of the business. Preventive restructuring frameworks should above all enable the enterprises to restructure at an early stage and to avoid their insolvency **and the liquidation of viable companies**. Those frameworks should maximise the total value to creditors, owners and the economy as a whole and should prevent unnecessary job losses and losses of knowledge and skills. They should also prevent the build-up of non-performing loans. In the restructuring process the rights of all parties involved should be

businesses with no prospect of survival should be liquidated as quickly as possible.

protected. At the same time, non-viable businesses with no prospect of survival should be liquidated as quickly as possible.

Or. es

### **Amendment 33**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

##### **Recital 3**

###### *Text proposed by the Commission*

(3) There are differences between the Member States as regards the range of the procedures available to **debtors** in financial difficulties in order to restructure their business. Some Member States have a limited range of procedures meaning that businesses are only able to restructure at a relatively late stage, in the context of insolvency procedures. In other Member States, restructuring is possible at an earlier stage **but the procedures available are not as effective as they could be or are very formal, in particular limiting the use of out-of-court processes**. Similarly, national rules giving entrepreneurs a second chance, in particular by granting them discharge from the debts they have incurred in the course of their business, vary between Member States in respect of the length of the discharge period and the conditions for granting such a discharge.

###### *Amendment*

(3) There are differences between the Member States as regards the range of the procedures available to **entrepreneurs** in financial difficulties in order to restructure their business. Some Member States have a limited range of procedures meaning that businesses are only able to restructure at a relatively late stage, in the context of insolvency procedures. In other Member States, restructuring is possible at an earlier stage. Similarly, national rules giving entrepreneurs a second chance, in particular by granting them discharge from the debts they have incurred in the course of their business, vary between Member States in respect of the length of the discharge period and the conditions for granting such a discharge.

*(This amendment, replacing the word 'debtor' with the word 'entrepreneur', applies throughout the text; adopting it will necessitate corresponding changes throughout.)*

Or. fr

## Amendment 34

Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz

### Proposal for a directive

#### Recital 3

##### *Text proposed by the Commission*

(3) There are differences between the Member States as regards the range of the procedures available to debtors in financial difficulties in order to restructure their business. Some Member States have a limited range of procedures meaning that businesses are only able to restructure at a relatively late stage, in the context of insolvency procedures. In other Member States, restructuring is possible at an earlier stage but the procedures available are not as effective as they could be or are very formal, in particular limiting the use of out-of-court processes. Similarly, national rules giving entrepreneurs a second chance, in particular by granting them discharge from the debts they have incurred in the course of their business, vary between Member States in respect of the length of the discharge period and the conditions for granting such a discharge.

##### *Amendment*

(3) There are differences between the Member States as regards the range of the procedures available to debtors in financial difficulties in order to restructure their business ***or debts, in the case of consumers who are not entrepreneurs.*** Some Member States have a limited range of procedures meaning that businesses are only able to restructure at a relatively late stage, in the context of insolvency procedures. In other Member States, restructuring is possible at an earlier stage but the procedures available are not as effective as they could be or are very formal, in particular limiting the use of out-of-court processes. Similarly, ***according to recently published studies<sup>1a</sup>, there are different models for the treatment of over-indebtedness among consumers, individuals and families across Europe. Mention might be made of three specific models<sup>1b</sup>: the Anglo-Saxon or market model, the Franco-Scandinavian or debtor rehabilitation model, and the Germanic model of debtor responsibility. Indeed, in some European Union countries such as Spain and Bulgaria these procedures are virtually non-existent in the case of natural persons who are not entrepreneurs. With regard to national rules giving entrepreneurs a second chance, in particular by granting them discharge from the debts they have incurred in the course of their business, these vary between Member States in respect of the length of the discharge period and the conditions for granting such a discharge.***

---

<sup>1a</sup> *Study on a new approach to business*

*failure and insolvency. Published by EC DG for JUSTICE and CONSUMERS: [http://ec.europa.eu/justice/civil/files/insolvency/insolvency\\_study\\_2016\\_final\\_en.pdf](http://ec.europa.eu/justice/civil/files/insolvency/insolvency_study_2016_final_en.pdf) (24.05.2017)*

*<sup>1b</sup> Gutiérrez-Peris, D. Viavoice (2015) Personal insolvency laws in Europe*

Or. es

**Amendment 35**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

*(3a) Early recourse to preventive restructuring should not have the effect of whittling down workers' rights, particularly with regard to their pay and working conditions, but also with regard to their rights to representation and, more generally, to conduct a normal relationship between social partners, in particular as regards information and consultation.*

Or. fr

**Amendment 36**  
**Edouard Martin, Jutta Steinruck, Agnes Jongerius, Javi López, Elena Gentile, Sergio Gutiérrez Prieto, Maria Arena**

**Proposal for a directive**  
**Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

*(3a) Workers' representatives should be given a whistleblower role with regard to the state of health of their company. In addition, the use of expert evaluations as part of restructuring plans should be*



*guaranteed and promoted, particularly evaluations relevant to buy-outs of companies by their employees.*

Or. fr

**Amendment 37**  
**Jana Žitňanská**

**Proposal for a directive**  
**Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

*(3a) The Member States should examine the possibility of devising mechanisms to prevent excessive or abusive recourse to experts at the expense of an undertaking on the part of employees, since such recourse would ultimately have a negative impact on the financial situation of the undertaking.*

Or. sk

**Amendment 38**  
**Verónica Lope Fontagné**

**Proposal for a directive**  
**Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

*(3a) A common legislative framework will be positive for the interests of businesses and entrepreneurs wishing to extend their activity to other Member States and for transnational investors, since legal uncertainty will be reduced.*

Or. es

**Amendment 39**  
**Verónica Lope Fontagné**

**Proposal for a directive**  
**Recital 3 b (new)**

*Text proposed by the Commission*

*Amendment*

**(3b)** *Early restructuring may entail the exceptional renegotiation of working conditions, including pay, if this serves the normal continuation of business activity and the maintenance of jobs.*

Or. es

**Amendment 40**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 3 b (new)**

*Text proposed by the Commission*

*Amendment*

**(3b)** *Special treatment should be accorded to retired workers whose pensions depend, entirely or in part, on company pension plans and who might be harmed by early restructuring.*

Or. fr

**Amendment 41**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 4**

*Text proposed by the Commission*

*Amendment*

(4) In many Member States it takes more than three years for bankrupt, but honest entrepreneurs to discharge their debts and make a fresh start. ***Inefficient second chance frameworks result in***

(4) In many Member States it takes more than three years for bankrupt, but honest entrepreneurs to discharge their debts and make a fresh start. Long disqualification orders which often

*entrepreneurs having to relocate in other jurisdictions in order to benefit from a fresh start in a reasonable period of time, at considerable additional costs to both their creditors and the debtors themselves.*

Long disqualification orders which often accompany a procedure leading to discharge create obstacles to the freedom to take up and pursue a self-employed, entrepreneurial activity.

accompany a procedure leading to discharge create obstacles to the freedom to take up and pursue a self-employed, entrepreneurial activity.

Or. fr

## **Amendment 42**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

### **Proposal for a directive**

#### **Recital 4**

##### *Text proposed by the Commission*

(4) In many Member States it takes more than three years for bankrupt, but honest entrepreneurs to discharge their debts and make a fresh start. Inefficient second chance frameworks result in entrepreneurs having to relocate in other jurisdictions in order to benefit from a fresh start in a reasonable period of time, at considerable additional costs to both their creditors and the debtors themselves. Long disqualification orders which often accompany a procedure leading to discharge create obstacles to the freedom to take up and pursue a self-employed, entrepreneurial activity.

##### *Amendment*

(4) In many Member States it takes more than three years for bankrupt, but honest entrepreneurs *or honest over-indebted consumers who are not entrepreneurs* to discharge their debts and make a fresh start. Inefficient second chance frameworks result in entrepreneurs having to relocate in other jurisdictions in order to benefit from a fresh start in a reasonable period of time, *or consumers who are not entrepreneurs frequently being thrown into poverty and exclusion or facing living and subsistence conditions that are a violation of human rights and the right to maintain decent living standards. This all comes at considerable additional costs to both their creditors and the debtors themselves, and for society as a whole.* Long disqualification orders *or eviction* which often accompany a procedure leading to discharge create obstacles to the freedom to take up and pursue a self-employed, entrepreneurial activity *and violate people's dignity.*

**Amendment 43****Enrique Calvet Chambon, Robert Rochefort****Proposal for a directive****Recital 4***Text proposed by the Commission*

(4) In many Member States it takes more than three years for bankrupt, but honest entrepreneurs to discharge their debts and make a fresh start. Inefficient second chance frameworks result in entrepreneurs having to relocate in other jurisdictions in order to benefit from a fresh start in a reasonable period of time, at considerable additional costs to both their creditors and the debtors themselves. Long disqualification orders which often accompany a procedure leading to discharge create obstacles to the freedom to *take up and* pursue *a self-employed*, entrepreneurial activity.

*Amendment*

(4) In many Member States it takes more than three years for bankrupt, but honest entrepreneurs to discharge their debts and make a fresh start. Inefficient second chance frameworks result in entrepreneurs having to relocate in other jurisdictions in order to benefit from a fresh start in a reasonable period of time, at considerable additional costs to both their creditors and the debtors themselves. Long disqualification orders which often accompany a procedure leading to discharge create obstacles to the freedom to pursue entrepreneurial activity.

Or. fr

**Amendment 44****Verónica Lope Fontagné****Proposal for a directive****Recital 4 a (new)***Text proposed by the Commission**Amendment*

***(4a) A second chance should be seen as a step towards success and not a synonym for failure. Second-chance mechanisms that allow the exoneration of unpaid debt for those debtors who are considered as acting in good faith represent a disincentive for the black economy and foster the business culture, which will always have a positive effect on***

*employment. Member States may extend second chance to natural persons.*

Or. es

#### **Amendment 45**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

#### **Proposal for a directive**

##### **Recital 5**

*Text proposed by the Commission*

(5) Excessive length of restructuring, insolvency and discharge procedures in several Member States is an important factor triggering low recovery rates *and* deterring investors from making business in *jurisdictions where procedures risk taking too long.*

*Amendment*

(5) Excessive length of restructuring, insolvency and discharge procedures in several Member States, *or the virtual inexistence of these procedures in some cases*, is an important factor triggering low *business* recovery rates, deterring investors from making business in *the countries concerned and dramatically contributing to the increase in the number of citizens at risk of poverty or social and labour exclusion, undermining the social and economic resilience of society as a whole.*

Or. es

#### **Amendment 46**

**Karima Delli**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Recital 5**

*Text proposed by the Commission*

(5) Excessive length of restructuring, insolvency and discharge procedures in several Member States is an important factor triggering low recovery rates and deterring investors from making business in jurisdictions where procedures risk taking too long.

*Amendment*

(5) Excessive length of restructuring, insolvency and discharge procedures in several Member States is an important factor triggering *longstanding damage for the workers concerned*, low recovery rates and deterring investors from making business in jurisdictions where procedures risk taking too long.

**Amendment 47****Dominique Martin, Mara Bizzotto, Joëlle Mélin****Proposal for a directive****Recital 6***Text proposed by the Commission*

(6) *All these differences translate into additional costs for investors when assessing the risks of debtors entering financial difficulties in one or more Member States and the costs of restructuring companies having establishments, creditors or assets in other Member States, such as is most clearly the case of restructuring international groups of companies.* Many investors mention uncertainty about insolvency rules or the risk of lengthy or complex insolvency procedures in another country as a main reason for not investing or not entering into a business relationship with a counterpart outside their own country.

*Amendment*

(6) Many investors mention uncertainty about insolvency rules or the risk of lengthy or complex insolvency procedures in another country as a main reason for not investing or not entering into a business relationship with a counterpart outside their own country. *Fortunately, in some Member States, to protect their production and employees, these differences translate into additional costs to investors when they assess the risks associated with entrepreneurs in financial difficulties. It is true that costs are incurred by undertakings in the course of restructuring which have establishments, creditors or assets in other Member States; the most obvious example is the restructuring of international groups of undertakings.*

Or. fr

**Amendment 48****Maria Arena****Proposal for a directive****Recital 6***Text proposed by the Commission*

(6) All these differences translate into additional costs for investors when assessing the risks of debtors entering financial difficulties in one or more Member States and the costs of

*Amendment*

(6) All these differences translate into additional costs for investors *or banks* when assessing the risks of debtors entering financial difficulties in one or more Member States *or when assessing*

restructuring companies having establishments, creditors or assets in other Member States, such as is most clearly the case of restructuring international groups of companies. Many investors mention uncertainty about insolvency rules or the risk of lengthy or complex insolvency procedures in another country as a main reason for not investing or not entering into a business relationship with a counterpart outside their own country.

*the risks associated with taking over viable operations run by undertakings in difficulty* and the costs of restructuring companies having establishments, creditors or assets in other Member States, such as is most clearly the case of restructuring international groups of companies. Many investors mention uncertainty about insolvency rules or the risk of lengthy or complex insolvency procedures in another country as a main reason for not investing or not entering into a business relationship with a counterpart outside their own country.

Or. fr

**Amendment 49**  
**Enrique Calvet Chambon, Robert Rochefort**

**Proposal for a directive**  
**Recital 6**

*Text proposed by the Commission*

(6) All these differences translate into additional costs for investors when assessing the risks of debtors entering financial difficulties in one or more Member States and the costs of restructuring companies having establishments, creditors or assets in other Member States, such as is most clearly the case of restructuring international groups of companies. Many investors mention uncertainty about insolvency rules or the risk of lengthy or complex insolvency procedures in another country as a main reason for not investing or not entering into a business relationship with a counterpart outside their own country.

*Amendment*

(6) All these differences translate into additional costs for investors when assessing the risks of debtors entering financial difficulties in one or more Member States and the costs of restructuring companies having establishments, creditors or assets in other Member States, such as is most clearly the case of restructuring international groups of companies. Many investors mention uncertainty about insolvency rules or the risk of lengthy or complex insolvency procedures in another country as a main reason for not investing or not entering into a business relationship with a counterpart outside their own country. ***This uncertainty therefore acts as a disincentive which obstructs the freedom of establishment of undertakings and harms the proper functioning of the internal market.***

## Amendment 50

Dominique Martin, Mara Bizzotto, Joëlle Mélin

### Proposal for a directive

#### Recital 7

##### *Text proposed by the Commission*

(7) Those differences *lead to uneven* conditions for access to credit *and to uneven recovery rates in the Member States. A higher degree of harmonisation in the field of restructuring, insolvency and second chance is thus indispensable for a well-functioning single market in general and for a working Capital Markets Union in particular.*

##### *Amendment*

(7) Those differences *damage* conditions for access to credit *for honest entrepreneurs because certain dishonest entrepreneurs, some of them from other countries, abuse insolvency rules or commit fraud against them. It is therefore important that the directive should treat honest entrepreneurs as a separate category in order to facilitate a second chance for them.*

## Amendment 51

Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz

### Proposal for a directive

#### Recital 7

##### *Text proposed by the Commission*

(7) Those differences lead to uneven conditions for access to credit and to uneven recovery rates in the Member States. A higher degree of harmonisation in the field of restructuring, insolvency and second chance is thus indispensable for a well-functioning single market in general and for a working Capital Markets Union in particular.

##### *Amendment*

(7) Those differences lead to uneven conditions for access to credit and to uneven recovery rates in the Member States. A higher degree of harmonisation in the field of restructuring, insolvency and second chance *for entrepreneurs and for consumers who are not entrepreneurs* is thus indispensable for a well-functioning single market in general and for a working Capital Markets Union in particular.



**Amendment 52**  
**Enrique Calvet Chambon, Robert Rochefort**

**Proposal for a directive**  
**Recital 7**

*Text proposed by the Commission*

(7) Those differences lead to uneven conditions for access to credit and to uneven recovery rates in the Member States. A higher degree of harmonisation in the field of restructuring, insolvency and second chance is thus indispensable for a well-functioning single market in general and for a working Capital Markets Union in particular.

*Amendment*

(7) Those differences lead to uneven conditions for access to credit and to uneven recovery rates in the Member States. A higher degree of harmonisation in the field of restructuring, insolvency and second chance is thus indispensable for a well-functioning single market in general and for a working Capital Markets Union in particular, *as well as for the viability of economic operations and therefore for the preservation and creation of jobs.*

Or. fr

**Amendment 53**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 8**

*Text proposed by the Commission*

***(8) The additional risk-assessment and cross-border enforcement costs for creditors of over-indebted entrepreneurs who relocate to another Member State in order to obtain a second chance in a much shorter period of time should also be removed. The additional costs for entrepreneurs stemming from the need to relocate to another Member State in order to benefit from a second chance should also be reduced. Furthermore, the obstacles stemming from long disqualification orders linked to an entrepreneur' over-indebtedness suppresses entrepreneurship.***

*Amendment*

*deleted*

Or. fr

## Amendment 54

Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz

### Proposal for a directive

#### Recital 8

##### *Text proposed by the Commission*

(8) The additional risk-assessment and cross-border enforcement costs for creditors of over-indebted entrepreneurs who relocate to another Member State in order to obtain a second chance in a much shorter period of time should also be removed. The additional costs for entrepreneurs stemming from the need to relocate to another Member State in order to benefit from a second chance should also be reduced. Furthermore, the obstacles stemming from long disqualification orders linked to an entrepreneur's over-indebtedness suppresses entrepreneurship.

##### *Amendment*

(8) The additional risk-assessment and cross-border enforcement costs for creditors of over-indebted entrepreneurs who relocate to another Member State in order to obtain a second chance in a much shorter period of time should also be removed. The additional costs for entrepreneurs stemming from the need to relocate to another Member State in order to benefit from a second chance should also be reduced. ***This would likewise reduce the alarming costs for society of the spectacular rise in poverty and exclusion, as well as use of the black economy, resulting from unresolved over-indebtedness among individuals and families who daily face eviction or lack of access to basic goods and services, which generates a pocket of marginalisation that is not only unjust but also unproductive and counter-productive in terms of economic efficiency.*** Furthermore, the obstacles stemming from long disqualification orders linked to an entrepreneur's over-indebtedness, ***or eviction and the cutting-off of supplies linked to the over-indebtedness of natural persons who are not entrepreneurs,*** suppresses entrepreneurship ***and fosters the unproductive exclusion of citizens, in a way that is not only unjust but also inefficient.***

Or. es

## Amendment 55

Claudiu Ciprian Tănăsescu

**Proposal for a directive**  
**Recital 8**

*Text proposed by the Commission*

(8) The additional risk-assessment and cross-border enforcement costs for creditors of over-indebted entrepreneurs who relocate to another Member State in order to obtain a second chance in a much shorter period of time should also be removed. The additional costs for entrepreneurs stemming from the need to relocate to another Member State in order to benefit from a second chance should also be reduced. Furthermore, the obstacles stemming from long disqualification orders linked to an entrepreneur's over-indebtedness *suppresses* entrepreneurship.

*Amendment*

(8) The additional risk-assessment and cross-border enforcement costs for creditors of over-indebted entrepreneurs who relocate to another Member State in order to obtain a second chance in a much shorter period of time should also be removed. The additional costs for entrepreneurs stemming from the need to relocate to another Member State in order to benefit from a second chance should also be reduced. Furthermore, the obstacles stemming from long disqualification orders linked to an entrepreneur's over-indebtedness *stifles* entrepreneurship.

Or. ro

**Amendment 56**

**Karima Delli**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***(8a) It is widely recognised that any restructuring operation, in particular one of a major size and which generates a significant impact, should be accompanied by an explanation and justification to the stakeholders, covering the choice of the measures envisaged in relation to the objectives and to alternative options and respecting the full and appropriate involvement of workers' representatives at all levels, prepared in good time to enable stakeholders to prepare for consultations, before the company takes a decision<sup>1 a</sup>.***

**Amendment 57**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Recital 9**

*Text proposed by the Commission*

(9) The obstacles to the exercise of fundamental freedoms are not limited to purely cross-border situations. An increasingly interconnected single market - where goods, services, capital and workers circulate freely – with an ever stronger digital dimension means that very few companies are purely national if all relevant elements are considered, such as their client base, supply chain, scope of activities, investor and capital base. Even purely national insolvencies may have an impact on the functioning of the single market through the so-called domino effect of insolvencies, whereby an enterprise's insolvency may trigger further insolvencies in the supply chain.

*Amendment*

(9) The obstacles to the exercise of fundamental freedoms are not limited to purely cross-border situations. An increasingly interconnected single market - where goods, services, capital and workers circulate freely ***to the detriment of honest entrepreneurs*** – with an ever stronger ***financial*** companies are purely national if all relevant elements are considered, such as their client base, supply chain, scope of activities, investor and capital base. Even purely national insolvencies may have an impact on the functioning of the single market through the so-called domino effect of insolvencies, whereby an enterprise's insolvency may trigger further insolvencies in the supply chain.

**Amendment 58**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Recital 10**

*Text proposed by the Commission*

(10) Regulation (EU) 2015/848 of the

PE603.080v01-00

*Amendment*

(10) Regulation (EU) 2015/848 of the

AM\1123953EN.docx

European Parliament and of the Council<sup>62</sup> deals with issues of jurisdiction, recognition and enforcement, applicable law and cooperation in cross-border insolvency proceedings as well as with the interconnection of insolvency registers. Its scope covers preventive procedures which promote the rescue of an economically viable debtor as well as procedures which give a second chance to entrepreneurs. However, Regulation (EU) 2015/848 does not tackle the discrepancies between those procedures in national law. Furthermore, an instrument limited to cross-border insolvencies only would not remove all obstacles to free movement, nor would it be feasible for *investors* to determine in advance the cross-border or domestic nature of the future potential financial difficulties of the debtor. ***There is a need therefore to go beyond matters of judicial cooperation and to establish substantive minimum standards.***

---

<sup>62</sup> Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p. 19).

European Parliament and of the Council<sup>62</sup> deals with issues of jurisdiction, recognition and enforcement, applicable law and cooperation in cross-border insolvency proceedings as well as with the interconnection of insolvency registers. Its scope covers preventive procedures which promote the rescue of an economically viable debtor as well as procedures which give a second chance to entrepreneurs. However, Regulation (EU) 2015/848 does not tackle the discrepancies between those procedures in national law. Furthermore, an instrument limited to cross-border insolvencies only would not remove all obstacles to free movement, nor would it be feasible for *financiers* to determine in advance the cross-border or domestic nature of the future potential financial difficulties of the debtor.

---

<sup>62</sup> Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p. 19).

Or. fr

## **Amendment 59**

### **Maria Arena**

#### **Proposal for a directive**

#### **Recital 10**

##### *Text proposed by the Commission*

(10) Regulation (EU) 2015/848 of the European Parliament and of the Council<sup>62</sup> deals with issues of jurisdiction, recognition and enforcement, applicable law and cooperation in cross-border insolvency proceedings as well as with the interconnection of insolvency registers. Its

##### *Amendment*

(10) Regulation (EU) 2015/848 of the European Parliament and of the Council<sup>62</sup> deals with issues of jurisdiction, recognition and enforcement, applicable law and cooperation in cross-border insolvency proceedings as well as with the interconnection of insolvency registers. Its

scope covers preventive procedures which promote the rescue of an economically viable debtor as well as procedures which give a second chance to entrepreneurs. However, Regulation (EU) 2015/848 does not tackle the discrepancies between those procedures in national law. Furthermore, an instrument limited to cross-border insolvencies only would not remove all obstacles to free movement, nor would it be feasible for investors to determine in advance the cross-border or domestic nature of the future potential financial difficulties of the debtor. There is a need therefore to go beyond matters of judicial cooperation and to establish substantive minimum standards.

---

<sup>62</sup> Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p. 19).

scope covers preventive procedures ***initiated by a public decision*** which promote the rescue of an economically viable debtor as well as procedures which give a second chance to entrepreneurs. However, Regulation (EU) 2015/848 does not tackle the discrepancies between those procedures in national law ***and does not concern confidential procedures***. Furthermore, an instrument limited to cross-border insolvencies only would not remove all obstacles to free movement, nor would it be feasible for investors to determine in advance the cross-border or domestic nature of the future potential financial difficulties of the debtor. There is a need therefore to go beyond matters of judicial cooperation and to establish substantive minimum standards.

---

<sup>62</sup> Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p. 19).

Or. fr

## **Amendment 60**

### **Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

##### **Recital 11**

###### *Text proposed by the Commission*

(11) It is necessary to lower the costs of restructuring for both debtors and creditors. Therefore the differences which hamper the early restructuring of viable enterprises in financial difficulties and the possibility of a second chance for honest entrepreneurs should be reduced. That should bring greater transparency, legal certainty and predictability in the Union. Also, it should ***maximise the returns to all types of creditors and investors and***

###### *Amendment*

(11) It is necessary to lower the costs of restructuring for both debtors and creditors. Therefore the differences which hamper the early restructuring of viable enterprises in financial difficulties and the possibility of a second chance for honest entrepreneurs should be reduced. That should bring greater transparency, legal certainty and predictability in the Union. Also, it should ***safeguard employment to the maximum.***

*encourage cross-border investment.  
Greater coherence should also facilitate  
the restructuring of groups of companies  
irrespective of where the members of the  
group are located in the Union.*

Or. fr

**Amendment 61**  
**Maria Arena**

**Proposal for a directive**  
**Recital 11**

*Text proposed by the Commission*

(11) It is necessary to lower the costs of restructuring for both debtors and creditors. Therefore the differences which hamper the early restructuring of viable enterprises in financial difficulties and the possibility of a second chance for honest entrepreneurs should be reduced. That should bring greater transparency, legal certainty and predictability in the Union. Also, it should maximise the returns to all types of creditors and investors and encourage cross-border investment. Greater coherence should also facilitate the restructuring of groups of companies irrespective of where the members of the group are located in the Union.

*Amendment*

(11) It is necessary to lower the costs of restructuring for both debtors and creditors, *who often bear those costs indirectly because of the reduction of their reimbursement.* Therefore the differences which hamper the early restructuring of viable enterprises in financial difficulties and the possibility of a second chance for honest entrepreneurs should be reduced. That should bring greater transparency, legal certainty and predictability in the Union. Also, it should maximise the returns to all types of creditors and investors and encourage cross-border investment. Greater coherence should also facilitate the restructuring of groups of companies irrespective of where the members of the group are located in the Union.

Or. fr

**Amendment 62**  
**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**  
**Recital 11**

*Text proposed by the Commission*

(11) It is necessary to lower the costs of restructuring for both debtors and creditors. Therefore the differences which hamper the early restructuring of viable enterprises in financial difficulties and the possibility of a second chance for honest entrepreneurs should be reduced. That should bring greater transparency, legal certainty and predictability in the Union. Also, it should maximise the returns to all types of creditors and investors and encourage cross-border investment. Greater coherence should also facilitate the restructuring of groups of companies irrespective of where the members of the group are located in the Union.

*Amendment*

(11) It is necessary to lower the costs of restructuring for both debtors and creditors. Therefore the differences which hamper the early restructuring of viable enterprises ***and productive and able citizens*** in financial difficulties, and the possibility of a second chance for honest entrepreneurs ***and consumers who are not entrepreneurs***, should be reduced. That should bring greater transparency, legal certainty and predictability in the Union. Also, it should maximise the returns to all types of creditors and investors and encourage cross-border investment, ***as well as greater social cohesion across the Union, which should improve the resilience of European economies***. Greater coherence should also facilitate the restructuring of groups of companies irrespective of where the members of the group are located in the Union.

Or. es

**Amendment 63**

**Karima Delli**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Recital 11**

*Text proposed by the Commission*

(11) It is necessary to lower the costs of restructuring for both debtors and creditors. Therefore the differences which hamper the early restructuring of viable enterprises in financial difficulties and the possibility of a second chance for honest entrepreneurs should be reduced. That should bring greater transparency, legal certainty and predictability in the Union. Also, it should maximise the returns to all types of creditors and investors and

*Amendment*

(11) It is necessary to lower the costs of restructuring for both debtors and creditors. Therefore the differences which hamper the early restructuring of viable enterprises in financial difficulties and the possibility of a second chance for honest entrepreneurs should be reduced. That should bring greater transparency, legal certainty and predictability in the Union. Also, it should ***prioritise the protection of the workers concerned and their claims by***



encourage cross-border investment. Greater coherence should also facilitate the restructuring of groups of companies irrespective of where the members of the group are located in the Union.

*ensuring absolute priority to their class claims*, maximise the returns to all types of creditors and investors and encourage cross-border investment. Greater coherence should also facilitate the restructuring of groups of companies irrespective of where the members of the group are located in the Union.

Or. en

**Amendment 64**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 12**

*Text proposed by the Commission*

*Amendment*

*(12) Removing the barriers to effective restructuring of viable enterprises in financial difficulties contributes to minimising job losses, losses for creditors in the supply chain, preserves know-how and skills and hence benefits the wider economy. Facilitating a second chance for entrepreneurs avoids their exclusion from the labour market and enables them to restart entrepreneurial activities, drawing lessons from past experience. Finally, reducing the length of restructuring procedures would result in higher recovery rates for creditors as the passing of time would normally only result in a further loss of value for the enterprise. Moreover, efficient insolvency frameworks would enable a better assessment of the risks involved in lending and borrowing decisions and smooth the adjustment for over-indebted enterprises, minimizing the economic and social costs involved in their deleveraging process.*

*deleted*

Or. fr

## Amendment 65

Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz

### Proposal for a directive

#### Recital 12

*Text proposed by the Commission*

(12) Removing the barriers to effective restructuring of viable enterprises in financial difficulties contributes to minimising job losses, losses for creditors in the supply chain, preserves know-how and skills **and hence benefits** the wider economy. Facilitating a second chance for entrepreneurs avoids their exclusion from the labour market and enables them to restart entrepreneurial activities, drawing lessons from past experience. Finally, reducing the length of restructuring procedures would result in higher recovery rates for creditors as the passing of time would normally only result in a further loss of value for the enterprise. Moreover, efficient insolvency frameworks would enable a better assessment of the risks involved in lending and borrowing decisions and smooth the adjustment for over-indebted enterprises, minimizing the economic and social costs involved in their deleveraging process.

*Amendment*

(12) Removing the barriers to effective restructuring of viable enterprises **and consumers who are not entrepreneurs** in financial difficulties contributes to minimising job losses, losses for creditors in the supply chain, preserves know-how and skills, **and fosters a fairer and more egalitarian society for the benefit of** the wider economy. Facilitating a second chance for entrepreneurs **and for natural persons who are not entrepreneurs** avoids their exclusion from the labour market and enables them to restart entrepreneurial **and economic** activities, **also avoiding their making use of the black economy while** drawing lessons from past experience. Finally, reducing the length of restructuring procedures would result in higher recovery rates for creditors as the passing of time would normally only result in a further loss of value for the enterprise. Moreover, efficient insolvency frameworks would enable a better assessment of the risks involved in lending and borrowing decisions and smooth the adjustment for over-indebted enterprises, minimizing the economic and social costs involved in their deleveraging process.

Or. es

## Amendment 66

Karima Delli

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Recital 12

*Text proposed by the Commission*

(12) Removing the barriers to effective restructuring of viable enterprises in financial difficulties **contributes** to minimising job losses, losses for creditors in the supply chain, preserves know-how and skills and hence benefits the wider economy. Facilitating a second chance for entrepreneurs avoids their exclusion from the labour market and enables them to restart entrepreneurial activities, drawing lessons from past experience. Finally, reducing the length of restructuring procedures would result in higher recovery rates for creditors as the passing of time would normally only result in a further loss of value for the enterprise. Moreover, efficient insolvency frameworks would enable a better assessment of the risks involved in lending and borrowing decisions and smooth the adjustment for over-indebted enterprises, minimizing the economic and social costs involved in their deleveraging process.

*Amendment*

(12) ***If well combined***, removing the barriers to effective restructuring of viable enterprises in financial difficulties ***while protecting workers could contribute*** to minimising job losses, losses for creditors in the supply chain, preserves know-how and skills and hence benefits the wider economy. Facilitating a second chance for entrepreneurs avoids their exclusion from the labour market and enables them to restart entrepreneurial activities, drawing lessons from past experience. Finally, reducing the length of restructuring procedures would result in higher recovery rates for creditors as the passing of time would normally only result in a further loss of value for the enterprise. Moreover, efficient insolvency frameworks would enable a better assessment of the risks involved in lending and borrowing decisions and smooth the adjustment for over-indebted enterprises, minimizing the economic and social costs involved in their deleveraging process.

Or. en

**Amendment 67**

**Maria Arena**

**Proposal for a directive**

**Recital 12**

*Text proposed by the Commission*

(12) Removing the barriers to effective restructuring of viable enterprises in financial difficulties contributes to minimising job losses, losses for creditors in the supply chain, preserves know-how and skills and hence benefits the wider economy. Facilitating a second chance for entrepreneurs avoids their exclusion from the labour market and enables them to

*Amendment*

(12) Removing the barriers to effective restructuring of viable enterprises in financial difficulties contributes to minimising job losses, losses for creditors in the supply chain, preserves know-how and skills and hence benefits the wider economy. ***In order to attain that objective and to preserve employment and operations, it is necessary to enable these***

restart entrepreneurial activities, drawing lessons from past experience. Finally, reducing the length of restructuring procedures would result in higher recovery rates for creditors as the passing of time would normally only result in a further loss of value for the enterprise. Moreover, efficient insolvency frameworks would enable a better assessment of the risks involved in lending and borrowing decisions and smooth the adjustment for over-indebted enterprises, minimizing the economic and social costs involved in their deleveraging process.

***procedures to be conducted in whole or in part in a confidential framework, which in particular requires the rights of workers to be specified better.*** Facilitating a second chance for entrepreneurs avoids their exclusion from the labour market and enables them to restart entrepreneurial activities, drawing lessons from past experience. Finally, reducing the length of restructuring procedures would result in higher recovery rates for creditors as the passing of time would normally only result in a further loss of value for the enterprise. Moreover, efficient insolvency frameworks would enable a better assessment of the risks involved in lending and borrowing decisions and smooth the adjustment for over-indebted enterprises, minimizing the economic and social costs involved in their deleveraging process.

Or. fr

## **Amendment 68** **Claudiu Ciprian Tănăsescu**

### **Proposal for a directive** **Recital 13**

#### *Text proposed by the Commission*

(13) In particular small and medium sized enterprises should benefit from a **more** coherent approach at Union level, since they do not have the necessary resources to cope with high restructuring costs and to take advantage of the **more efficient** restructuring procedures in some Member States. Small and medium enterprises, especially when facing financial difficulties, often do not have the resources to hire professional advice, therefore early warning tools should be put in place to alert debtors to the urgency to act. In order to help such enterprises restructure at low cost, model restructuring plans should also be developed nationally

#### *Amendment*

(13) In particular small and medium sized enterprises should benefit from a coherent approach at Union level, since they do not have the necessary resources to cope with high restructuring costs and to take advantage of the restructuring procedures in some Member States, **which have proved to be efficient**. Small and medium enterprises, especially when facing financial difficulties, often do not have the resources to hire professional advice, therefore early warning tools should be put in place to alert debtors to the urgency to act. In order to help such enterprises restructure at low cost, model restructuring plans should also be

and made available online. Debtors should be able to use and adapt them to their own needs and to the specificities of their business.

developed nationally and made available online. Debtors should be able to use and adapt them to their own needs and to the specificities of their business.

Or. ro

## **Amendment 69**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

### **Proposal for a directive**

#### **Recital 13**

##### *Text proposed by the Commission*

(13) In particular small and medium sized enterprises should benefit from a more coherent approach at Union level, since they do not have the necessary resources to cope with high restructuring costs and to take advantage of the more efficient restructuring procedures in some Member States. Small and medium enterprises, especially when facing financial difficulties, often do not have the resources to hire professional advice, therefore early warning tools should be put in place to alert debtors to the urgency to act. In order to help such enterprises restructure at low cost, model restructuring plans should also be developed nationally and made available online. Debtors should be able to use and adapt them to their own needs and to the specificities of their business.

##### *Amendment*

(13) In particular small and medium sized enterprises ***and consumers who are not entrepreneurs*** should benefit from a more coherent approach at Union level, since they do not have the necessary resources to cope with high restructuring costs and to take advantage of the more efficient restructuring procedures in some Member States. Small and medium enterprises, ***as well as consumers***, especially when facing financial difficulties, often do not have the resources to hire professional advice, therefore early warning tools should be put in place to alert ***these*** debtors to the urgency to act. In order to help such enterprises ***and individuals*** restructure at low cost, model restructuring plans should also be developed nationally and made available online. Debtors should be able to use and adapt them to their own needs and to the specificities of their business ***or the nature of their indebtedness as consumers who are not entrepreneurs***.

Or. es

## **Amendment 70**

**Maria Arena**

**Proposal for a directive**  
**Recital 13**

*Text proposed by the Commission*

(13) In particular small and medium sized enterprises should benefit from a more coherent approach at Union level, since they do not have the necessary resources to cope with high restructuring costs and to take advantage of the more efficient restructuring procedures in some Member States. Small and medium enterprises, especially when facing financial difficulties, often do not have the resources to hire professional advice, therefore early warning tools should be put in place to alert debtors to the urgency to act. In order to help such enterprises restructure at low cost, model restructuring plans should also be developed nationally and made available online. Debtors should be able to use and adapt them to their own needs and to the specificities of their business.

*Amendment*

(13) In particular small and medium sized enterprises should benefit from a more coherent approach at Union level, since they do not have the necessary resources to cope with high restructuring costs and to take advantage of the more efficient restructuring procedures in some Member States. Small and medium enterprises, especially when facing financial difficulties, often do not have the resources to hire professional advice, therefore early warning tools should be put in place to alert debtors to the urgency to act. In order to help such enterprises restructure at low cost, ***confidential procedures which minimise loss of value, jobs and creditors' dividends should be possible***. Model restructuring plans should also be developed nationally and made available online. Debtors should be able to use and adapt them to their own needs and to the specificities of their business.

Or. fr

**Amendment 71**

**Karima Delli**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 13**

*Text proposed by the Commission*

(13) In particular small and medium sized enterprises should benefit from a more coherent approach at Union level, since they do not have the necessary resources to cope with high restructuring costs and to take advantage of the more efficient restructuring procedures in some Member States. Small and medium

*Amendment*

(13) In particular small and medium sized enterprises should benefit from a more coherent approach at Union level, since they do not have the necessary resources to cope with high restructuring costs and to take advantage of the more efficient restructuring procedures in some Member States. Small and medium

enterprises, especially when facing financial difficulties, often do not have the resources to hire professional advice, therefore early warning tools should be put in place to alert debtors to the urgency to act. In order to help such enterprises restructure at low cost, model restructuring plans should also be developed nationally and made available online. Debtors should be able to use and adapt them to their own needs and to the specificities of their business.

enterprises, especially when facing financial difficulties, **as well as workers representatives** often do not have the resources to hire professional advice, therefore early warning tools should be put in place to alert debtors to the urgency to act. In order to help such enterprises restructure at low cost, model restructuring plans should also be developed nationally and made available online. Debtors should be able to use and adapt them to their own needs and to the specificities of their business.

Or. en

## **Amendment 72**

**Maria Arena, Edouard Martin**

### **Proposal for a directive**

#### **Recital 13**

##### *Text proposed by the Commission*

(13) In particular small and medium sized enterprises should benefit from a more coherent approach at Union level, since they do not have the necessary resources to cope with high restructuring costs and to take advantage of the more efficient restructuring procedures in some Member States. Small and medium enterprises, especially when facing financial difficulties, often do not have the resources to hire professional advice, therefore early warning tools should be put in place to alert debtors to the urgency to act. In order to help such enterprises restructure at low cost, model restructuring plans should also be developed nationally and made available online. Debtors should be able to use and adapt them to their own needs and to the specificities of their business.

##### *Amendment*

(13) In particular small and medium sized enterprises should benefit from a more coherent approach at Union level, since they do not have the necessary resources to cope with high restructuring costs and to take advantage of the more efficient restructuring procedures in some Member States. Small and medium enterprises, especially when facing financial difficulties, often do not have the resources to hire professional advice, therefore early warning tools should be put in place to alert debtors to the urgency to act. In order to help such enterprises restructure at low cost, model restructuring plans should also be developed nationally and made available online. Debtors should be able to use and adapt them to their own needs and to the specificities of their business. ***It should be possible for the debtor to find ad hoc and special solutions with third parties or creditors, either by reducing debts to all or most of the***

*creditors or by surrendering whatever operations are viable, contributing to the satisfaction of creditors' claims better than by means of the liquidation of assets, while preserving as many jobs as possible.*

Or. fr

**Amendment 73**  
**Jana Žitňanská**

**Proposal for a directive**  
**Recital 13 a (new)**

*Text proposed by the Commission*

*Amendment*

*(13a) In order to secure a more coherent approach, the Commission is asked to consider setting up a single European journal recording insolvencies, which would provide greater transparency for all creditors and simplify access to information, in particular for small and medium-sized enterprises and for employees.*

Or. sk

**Amendment 74**  
**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**  
**Recital 15**

*Text proposed by the Commission*

*Amendment*

(15) Consumer over-indebtedness is a matter of great economic and social concern and is closely related to the reduction of debt overhang. Furthermore, it is often not possible to draw a clear distinction between the consumer and business debts of an entrepreneur. A second chance regime for entrepreneurs would not be effective if the entrepreneur

(15) Consumer over-indebtedness is a matter of great economic and social concern and is closely related to the reduction of debt overhang. Furthermore, it is often not possible to draw a clear distinction between the consumer and business debts of an entrepreneur. A second chance regime for entrepreneurs would not be effective if the entrepreneur



had to go through separate procedures, with different access conditions and discharge periods, to discharge his business personal debts and his non-business personal debts. For these reasons, ***although this Directive does not include binding rules on consumer over-indebtedness***, Member States should ***be able to*** also apply the discharge provisions to consumers.

had to go through separate procedures, with different access conditions and discharge periods, to discharge his business personal debts and his non-business personal debts. For these reasons, Member States should also apply the discharge provisions to consumers ***who are not entrepreneurs***.

Or. es

## **Amendment 75** **Enrique Calvet Chambon**

### **Proposal for a directive** **Recital 16**

#### *Text proposed by the Commission*

(16) The earlier the debtor can detect its financial difficulties and can take appropriate action, the higher the probability of avoiding an impending insolvency or, in case of a business whose viability is permanently impaired, the more orderly and efficient the winding-up process. Clear information on the available preventive restructuring procedures as well as early warning tools should therefore be put in place to incentivise debtors who start to experience financial problems to take early action. Possible early warning mechanisms should include accounting and monitoring duties for the debtor or the debtor's management as well as reporting duties under loan agreements. In addition, ***third parties with relevant information such as accountants, tax and social security authorities could be incentivised or obliged under national law to flag a negative development.***

#### *Amendment*

(16) The earlier the debtor can detect its financial difficulties and can take appropriate action, the higher the probability of avoiding an impending insolvency or, in case of a business whose viability is permanently impaired, the more orderly and efficient the winding-up process. Clear information on the available preventive restructuring procedures as well as early warning tools should therefore be put in place to incentivise debtors who start to experience financial problems to take early action. Possible early warning mechanisms should include accounting and monitoring duties for the debtor or the debtor's management as well as reporting duties under loan agreements. In addition, ***social security, competition and audit authorities would have sufficient means under domestic law to draw attention to any dangerous development at the earliest possible stage.***

Or. fr

## Amendment 76

Karima Delli

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Recital 16

*Text proposed by the Commission*

(16) The earlier the debtor can detect *its* financial difficulties and can take appropriate action, the higher the probability of avoiding an impending insolvency or, in case of a business whose viability is permanently impaired, the more orderly and efficient the winding-up process. Clear information on the available preventive restructuring procedures as well as early warning tools should therefore be put in place to incentivise debtors who start to experience financial problems to take early action. Possible early warning mechanisms should include accounting and monitoring duties for the debtor or the debtor's management as well as reporting duties under loan agreements. In addition, third parties with relevant information such as accountants, tax and social security authorities could be incentivised or obliged under national law to flag a negative development.

*Amendment*

(16) The earlier the debtor *and the workers concerned* can detect *companies'* financial difficulties and can take appropriate action, the higher the probability of avoiding an impending insolvency or, in case of a business whose viability is permanently impaired, the more orderly and efficient the winding-up process. Clear information on the available preventive restructuring procedures as well as early warning tools should therefore be put in place to incentivise debtors who start to experience financial problems to take early action *and to empower the workers concerned in order that they are able to take an active role in the restructuring process*. Possible early warning mechanisms should include accounting and monitoring duties for the debtor or the debtor's management as well as reporting duties under loan agreements. In addition, third parties with relevant information such as accountants, tax and social security authorities could be incentivised or obliged under national law to flag a negative development.

Or. en

## Amendment 77

Dominique Martin, Mara Bizzotto, Joëlle Mélin

### Proposal for a directive

#### Recital 17

*Text proposed by the Commission*

(17) A restructuring framework should

*Amendment*

(17) A restructuring framework should

be available to debtors to enable them to address their financial difficulties at an early stage, when it appears likely that their insolvency may be prevented and the continuation of their business assured. A restructuring framework should be available before a debtor becomes insolvent according to national law, i.e. before the debtor fulfils the conditions for entering collective insolvency procedure which entail normally a total divestment of the debtor and the appointment of a liquidator. A test of viability should not therefore be made a pre-condition for entering negotiations and for granting a stay of enforcement actions. ***Rather, the viability of an enterprise should most often be an assessment to be made by affected creditors who in their majority agree to some adjustments of their claims.*** However, in order to avoid the procedures being misused, the financial difficulties of the debtor should reflect a likelihood of insolvency and the restructuring plan should be capable of preventing the insolvency of the debtor and ensuring the viability of the business.

be available to debtors to enable them to address their financial difficulties at an early stage, when it appears likely that their insolvency may be prevented and the continuation of their business assured. A restructuring framework should be available before a debtor becomes insolvent according to national law, i.e. before the debtor fulfils the conditions for entering collective insolvency procedure which entail normally a total divestment of the debtor and the appointment of a liquidator. A test of viability should not therefore be made a pre-condition for entering negotiations and for granting a stay of enforcement actions. However, in order to avoid the procedures being misused, the financial difficulties of the debtor should reflect a likelihood of insolvency and the restructuring plan should be capable of preventing the insolvency of the ***honest*** debtor and ensuring the viability of the business.

Or. fr

**Amendment 78**  
**Paloma López Bermejo**

**Proposal for a directive**  
**Recital 18**

*Text proposed by the Commission*

(18) ***To promote efficiency and reduce delays and costs, national preventive restructuring frameworks should include flexible procedures limiting the involvement of judicial or administrative authorities to where it is necessary and proportionate in order to safeguard the interests of creditors and other interested parties likely to be affected. To avoid***

*Amendment*

(18) A degree of supervision should be ensured when this is necessary to safeguard the legitimate interests of one or more creditors or another interested party. This may be the case, in particular, when a general stay of individual enforcement actions is granted by the judicial or administrative authority or where it appears necessary to impose a restructuring plan on

*unnecessary costs and reflect the early nature of the procedure, debtors should in principle be left in control of their assets and the day-to-day operation of their business. The appointment of a restructuring practitioner, whether a mediator supporting the negotiations of a restructuring plan or an insolvency practitioner supervising the actions of the debtor, should not be mandatory in every case, but made on a case-by-case basis depending on the circumstances of the case or on the debtor's specific needs. Furthermore, there should not necessarily be a court order for the opening of the restructuring process which may be informal as long as the rights of third parties are not affected. Nevertheless, a degree of supervision should be ensured when this is necessary to safeguard the legitimate interests of one or more creditors or another interested party. This may be the case, in particular, when a general stay of individual enforcement actions is granted by the judicial or administrative authority or where it appears necessary to impose a restructuring plan on dissenting classes of creditors.*

dissenting classes of creditors.

Or. en

## **Amendment 79**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

### **Proposal for a directive**

#### **Recital 18**

##### *Text proposed by the Commission*

(18) To promote efficiency and reduce delays and costs, national preventive restructuring frameworks should include flexible procedures limiting the involvement of judicial or administrative authorities to where it is necessary and proportionate in order to safeguard the interests of creditors and other interested

##### *Amendment*

(18) To promote efficiency and reduce delays and costs, national preventive restructuring frameworks should include flexible procedures limiting the involvement of judicial or administrative authorities to where it is necessary and proportionate in order to safeguard the interests of creditors and other interested

parties likely to be affected. To avoid unnecessary costs and reflect the early nature of the procedure, debtors should in principle be left in control of their assets and the day-to-day operation of their business. The appointment of a restructuring practitioner, whether a mediator supporting the negotiations of a restructuring plan or an insolvency practitioner supervising the actions of the debtor, should not be mandatory in every case, but made on a case-by-case basis depending on the circumstances of the case or on the debtor's specific needs. Furthermore, there should not necessarily be a court order for the opening of the restructuring process which may be informal as long as the rights of third parties are not affected. Nevertheless, a degree of supervision should be ensured when this is necessary to safeguard the legitimate interests of *one or more creditors or another interested party*. This may be the case, in particular, when a general stay of individual enforcement actions is granted by the judicial or administrative authority or where it appears necessary to impose a restructuring plan on dissenting classes of creditors.

parties likely to be affected. To avoid unnecessary costs and reflect the early nature of the procedure, debtors should in principle be left in control of their assets and the day-to-day operation of their business. The appointment of a restructuring practitioner, whether a mediator supporting the negotiations of a restructuring plan or an insolvency practitioner supervising the actions of the debtor, should not be mandatory in every case, but made on a case-by-case basis depending on the circumstances of the case or on the debtor's specific needs. Furthermore, there should not necessarily be a court order for the opening of the restructuring process which may be informal as long as the rights of third parties are not affected. Nevertheless, a degree of supervision should be ensured when this is necessary to safeguard the legitimate interests of *the entrepreneur, of workers or of a creditor supplier who meets the definition of 'small or medium-sized enterprise'*. This may be the case, in particular, when a general stay of individual enforcement actions is granted by the judicial or administrative authority or where it appears necessary to impose a restructuring plan on dissenting classes of creditors.

Or. fr

## **Amendment 80**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

### **Proposal for a directive**

#### **Recital 18**

##### *Text proposed by the Commission*

(18) To promote efficiency and reduce delays and costs, national preventive restructuring frameworks should include flexible procedures limiting the involvement of judicial or administrative

##### *Amendment*

(18) To promote efficiency and reduce delays and costs, national preventive restructuring frameworks should include flexible procedures limiting the involvement of judicial or administrative

authorities to where it is necessary and proportionate in order to safeguard the interests of creditors and other interested parties likely to be affected. To avoid unnecessary costs and reflect the early nature of the procedure, debtors should in principle be left in control of their assets and the day-to-day operation of their business. The appointment of a restructuring practitioner, whether a mediator supporting the negotiations of a restructuring plan or an insolvency practitioner supervising the actions of the debtor, should not be mandatory in every case, but made on a case-by-case basis depending on the circumstances of the case or on the debtor's specific needs. Furthermore, there should not necessarily be a court order for the opening of the restructuring process which may be informal as long as the rights of third parties are not affected. Nevertheless, a degree of supervision should be ensured when this is necessary to safeguard the legitimate interests of one or more creditors or another interested party. This may be the case, in particular, when a general stay of individual enforcement actions is granted by the judicial or administrative authority or where it appears necessary to impose a restructuring plan on dissenting classes of creditors.

authorities to where it is necessary and proportionate in order to safeguard the interests of creditors and other interested parties likely to be affected. To avoid unnecessary costs and reflect the early nature of the procedure, debtors should in principle be left in control of their assets *or property* and the day-to-day operation of their business *or, as appropriate, access to minimum services and goods that guarantee that they can live a decent life*. The appointment of a restructuring practitioner, whether a mediator supporting the negotiations of a restructuring plan or an insolvency practitioner supervising the actions of the debtor, should not be mandatory in every case, but made on a case-by-case basis depending on the circumstances of the case or on the debtor's specific needs. Furthermore, there should not necessarily be a court order for the opening of the restructuring process which may be informal as long as the rights of third parties are not affected. Nevertheless, a degree of supervision should be ensured when this is necessary to safeguard the legitimate interests of one or more creditors or another interested party. This may be the case, in particular, when a general stay of individual enforcement actions is granted by the judicial or administrative authority or where it appears necessary to impose a restructuring plan on dissenting classes of creditors.

Or. es

**Amendment 81**  
**Maria Arena**

**Proposal for a directive**  
**Recital 18**

*Text proposed by the Commission*

(18) To promote efficiency and reduce delays and costs, national preventive

*Amendment*

(18) To promote efficiency and reduce delays and costs, national preventive

restructuring frameworks should include flexible procedures limiting the involvement of judicial or administrative authorities to where it is necessary and proportionate in order to safeguard the interests of creditors and other interested parties likely to be affected. To avoid unnecessary costs and reflect the early nature of the procedure, debtors should in principle be left in control of their assets and the day-to-day operation of their business. The appointment of a restructuring practitioner, whether a mediator supporting the negotiations of a restructuring plan or an insolvency practitioner supervising the actions of the debtor, should not be mandatory in every case, but made on a case-by-case basis depending on the circumstances of the case or on the debtor's specific needs. Furthermore, there should not necessarily be a court order for the opening of the restructuring process which may be informal as long as the rights of third parties are not affected. Nevertheless, a degree of supervision should be ensured when this is necessary to safeguard the legitimate interests of one or more creditors or another interested party. This may be the case, in particular, when a general stay of individual enforcement actions is granted by the judicial or administrative authority or where it appears necessary to impose a restructuring plan on dissenting classes of creditors.

restructuring frameworks should include flexible procedures limiting the involvement of judicial or administrative authorities to where it is necessary and proportionate in order to safeguard the interests of creditors and other interested parties likely to be affected. To avoid unnecessary costs and reflect the early nature of the procedure, debtors should in principle be left in control of their assets and the day-to-day operation of their business. The appointment of a restructuring practitioner, whether a mediator supporting the negotiations of a restructuring plan or an insolvency practitioner supervising the actions of the debtor, should not be mandatory in every case, but made on a case-by-case basis depending on the circumstances of the case or on the debtor's specific needs. Furthermore, there should not necessarily be a court order for the opening of the restructuring process which may be informal as long as the rights of third parties are not affected. Nevertheless, a degree of supervision should be ensured when this is necessary to safeguard the legitimate interests of one or more creditors or another interested party. This may be the case, in particular, when a general stay of individual enforcement actions is granted by the judicial or administrative authority or where it appears necessary to impose a restructuring plan on dissenting classes of creditors *or if all or part of the business is transferred to another undertaking.*

Or. fr

**Amendment 82**  
**Heinz K. Becker**

**Proposal for a directive**  
**Recital 19**

**(19) A debtor should be able to request the judicial or administrative authority for a temporary stay of individual enforcement actions which should also suspend the obligation to file for opening of insolvency procedures where such actions may adversely affect negotiations and hamper the prospects of a restructuring of the debtor's business. The stay of enforcement could be general, that is to say affecting all creditors, or targeted towards individual creditors. In order to provide for a fair balance between the rights of the debtor and of creditors, the stay should be granted for a period of no more than four months. Complex restructurings may, however, require more time. Member States may decide that in such cases, extensions of this period may be granted by the judicial or administrative authority, providing there is evidence that negotiations on the restructuring plan are progressing and that creditors are not unfairly prejudiced. If further extensions are granted, the judicial or administrative authority should be satisfied that there is a strong likelihood that a restructuring plan will be adopted. Member States should ensure that any request to extend the initial duration of the stay is made within a reasonable deadline so as to allow the judiciary or administrative authorities to deliver a decision within due time. Where a judicial or administrative authority does not take a decision on the extension of a stay of enforcement before it lapses, the stay should cease to have effects on the day the stay period expires. In the interest of legal certainty, the total period of the stay should be limited to twelve months.**

**deleted**

Or. de



## Amendment 83

Karima Delli

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Recital 19

##### *Text proposed by the Commission*

(19) A debtor should be able to request the judicial or administrative authority for a temporary stay of individual enforcement actions which should also suspend the obligation to file for opening of insolvency procedures where such actions may adversely affect negotiations and hamper the prospects of a restructuring of the debtor's business. The stay of enforcement *could* be general, that is to say affecting all creditors, *or targeted towards individual creditors*. In order to provide for a fair balance between the rights of the debtor and of creditors, the stay should be granted for a period of no more than four months. Complex restructurings may, however, require more time. Member States may decide that in such cases, extensions of this period may be granted by the judicial or administrative authority, providing there is evidence that negotiations on the restructuring plan are progressing and that creditors are not unfairly prejudiced. If further extensions are granted, the judicial or administrative authority should be satisfied that there is a strong likelihood that a restructuring plan will be adopted. Member States should ensure that any request to extend the initial duration of the stay is made within a reasonable deadline so as to allow the judiciary or administrative authorities to deliver a decision within due time. Where a judicial or administrative authority does not take a decision on the extension of a stay of enforcement before it lapses, the stay should cease to have effects on the day the stay period expires. In the interest of legal certainty, the total period of the stay should be limited to twelve months.

##### *Amendment*

(19) A debtor should be able to request the judicial or administrative authority for a temporary stay of individual enforcement actions which should also suspend the obligation to file for opening of insolvency procedures where such actions may adversely affect negotiations and hamper the prospects of a restructuring of the debtor's business. The stay of enforcement *should not* be general, that is to say affecting all creditors, *as the workers, as a class, should be ensured absolute priority*. In order to provide for a fair balance between the rights of the debtor and of creditors, the stay should be granted for a period of no more than four months. Complex restructurings may, however, require more time. Member States may decide that in such cases, extensions of this period may be granted by the judicial or administrative authority, providing there is evidence that negotiations on the restructuring plan are progressing and that creditors are not unfairly prejudiced. If further extensions are granted, the judicial or administrative authority should be satisfied that there is a strong likelihood that a restructuring plan will be adopted. Member States should ensure that any request to extend the initial duration of the stay is made within a reasonable deadline so as to allow the judiciary or administrative authorities to deliver a decision within due time. Where a judicial or administrative authority does not take a decision on the extension of a stay of enforcement before it lapses, the stay should cease to have effects on the day the stay period expires. In the interest of legal certainty, the total period of the stay should

be limited to twelve months.

Or. en

## **Amendment 84**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

### **Proposal for a directive**

#### **Recital 19**

##### *Text proposed by the Commission*

(19) A debtor should be able to request the judicial or administrative authority for a temporary stay of individual enforcement actions which should also suspend the obligation to file for opening of insolvency procedures where such actions may adversely affect negotiations and hamper the prospects of a restructuring of the debtor's business. The stay of enforcement could be general, that is to say affecting all creditors, or targeted towards individual creditors. In order to provide for a fair balance between the rights of the debtor and of creditors, the stay should be granted for a period of no more than four months. Complex restructurings may, however, require more time. Member States may decide that in such cases, extensions of this period may be granted by the judicial or administrative authority, providing there is evidence that negotiations on the restructuring plan are progressing and that creditors are not unfairly prejudiced. If further extensions are granted, the judicial or administrative authority should be satisfied that there is a strong likelihood that a restructuring plan will be adopted. Member States should ensure that any request to extend the initial duration of the stay is made within a reasonable deadline so as to allow the judiciary or administrative authorities to deliver a decision within due time. Where a judicial or administrative authority does not take a decision on the extension of a stay of

##### *Amendment*

(19) A debtor should be able to request the judicial or administrative authority for a temporary stay of individual enforcement actions which should also suspend the obligation to file for opening of insolvency procedures where such actions may adversely affect negotiations and hamper the prospects of a restructuring of the debtor's business ***or, as appropriate, may affect access to minimum goods and services that are necessary to be able to live a decent life.*** The stay of enforcement could be general, that is to say affecting all creditors, or targeted towards individual creditors. In order to provide for a fair balance between the rights of the debtor and of creditors, the stay should be granted for a period of no more than four months. Complex restructurings may, however, require more time. Member States may decide that in such cases, extensions of this period may be granted by the judicial or administrative authority, providing there is evidence that negotiations on the restructuring plan are progressing and that creditors are not unfairly prejudiced. If further extensions are granted, the judicial or administrative authority should be satisfied that there is a strong likelihood that a restructuring plan will be adopted. Member States should ensure that any request to extend the initial duration of the stay is made within a reasonable deadline so as to allow the judiciary or administrative authorities to deliver a

enforcement before it lapses, the stay should cease to have effects on the day the stay period expires. In the interest of legal certainty, the total period of the stay should be limited to twelve months.

decision within due time. Where a judicial or administrative authority does not take a decision on the extension of a stay of enforcement before it lapses, the stay should cease to have effects on the day the stay period expires. In the interest of legal certainty, the total period of the stay should be limited to twelve months.

Or. es

**Amendment 85**  
**Heinz K. Becker**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

*Amendment*

***(20) To ensure that the creditors do not suffer detriment, the stay should not be granted or, if granted, should not be prolonged or should be lifted when creditors are unfairly prejudiced by the stay of enforcement. In establishing whether there is unfair prejudice to creditors, judicial or administrative authorities may take into account whether the stay would preserve the overall value of the estate, whether the debtor acts in bad faith or with the intention of causing prejudice or generally acts against the legitimate expectations of the general body of creditors. A single creditor or a class of creditors would be unfairly prejudiced by the stay if for example their claims would be made substantially worse-off as a result of the stay than if the stay was not granted, or if the creditor is put more at a disadvantage than other creditors in a similar position.***

***deleted***

Or. de

**Amendment 86**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

(20) To ensure that **the** creditors do not suffer detriment, the stay should not be granted or, if granted, should not be prolonged or should be lifted when creditors are unfairly prejudiced by the stay of enforcement. In establishing whether there is unfair prejudice to creditors, judicial or administrative authorities may take into account whether the stay would preserve the overall value of the estate, whether the debtor acts in bad faith or with the intention of causing prejudice or generally acts against the legitimate expectations of the general body of creditors. A single creditor or a class of creditors would be unfairly prejudiced by the stay if for example their claims would be made substantially worse-off as a result of the stay than if the stay was not granted, or if the creditor is put more at a disadvantage than other creditors in a similar position.

*Amendment*

(20) To **prevent the domino effect caused by certain bankruptcies of enterprises with 50 employees or fewer, it is important to** ensure that **priority** creditors do not suffer detriment. The stay should not be granted or, if granted, should not be prolonged or should be lifted when **priority** creditors are unfairly prejudiced by the stay of enforcement. In establishing whether there is unfair prejudice to **priority** creditors, judicial or administrative authorities may take into account whether the stay would preserve the overall value of the estate, whether the debtor acts in bad faith or with the intention of causing prejudice or generally acts against the legitimate expectations of the general body of creditors. A single **priority** creditor or a class of creditors would be unfairly prejudiced by the stay if for example their claims would be made substantially worse-off as a result of the stay than if the stay was not granted, or if the creditor is put more at a disadvantage than other creditors in a similar position.

Or. fr

**Amendment 87**  
**Maria Arena**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

(20) To ensure that the creditors do not suffer detriment, the stay should not be granted or, if granted, should not be

*Amendment*

(20) To ensure that the creditors do not suffer detriment, the stay should not be granted or, if granted, should not be

prolonged or should be lifted when creditors are unfairly prejudiced by the stay of enforcement. In establishing whether there is unfair prejudice to creditors, judicial or administrative authorities may take into account whether the stay would preserve the overall value of the estate, whether the debtor acts in bad faith or with the intention of causing prejudice or generally acts against the legitimate expectations of the general body of creditors. A single creditor or a class of creditors would be unfairly prejudiced by the stay if for example their claims would be made substantially worse-off as a result of the stay than if the stay was not granted, or if the creditor is put more at a disadvantage than other creditors in a similar position.

prolonged or should be lifted when creditors are unfairly prejudiced by the stay of enforcement. In establishing whether there is unfair prejudice to creditors, judicial or administrative authorities may take into account whether the stay would preserve the overall value of the estate *as it could be realised by means of liquidation or would preserve the dividend creditors would receive*, whether the debtor acts in bad faith or with the intention of causing prejudice or generally acts against the legitimate expectations of the general body of creditors. A single creditor or a class of creditors would be unfairly prejudiced by the stay if for example their claims would be made substantially worse-off as a result of the stay than if the stay was not granted, or if the creditor is put more at a disadvantage than other creditors in a similar position.

Or. fr

**Amendment 88**  
**Heinz K. Becker**

**Proposal for a directive**  
**Recital 21**

*Text proposed by the Commission*

***(21) Creditors to which the stay applies should also not be allowed to withhold performance, terminate, accelerate or in any other way modify executory contracts during the stay period, provided the debtor continues to comply with its existing obligations under such contracts. Early termination would endanger the ability of the business to continue operating during restructuring negotiations, especially when it concerns contracts for essential supplies such as gas, electricity, water, telecoms and card payment services. However, in order to protect the legitimate interests of creditors and to ensure the***

*Amendment*

***deleted***

*least disruption to the operation of creditors in the supply chain, the stay should only apply in respect of the claims which arose before the stay was granted. In order to achieve a successful restructuring, the debtor should pay in the ordinary course of business claims of and owed to creditors unaffected by the stay and the claims of creditors affected by the stay that arise after the stay is granted.*

Or. de

## **Amendment 89**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

### **Proposal for a directive**

#### **Recital 21**

##### *Text proposed by the Commission*

(21) Creditors to which the stay applies should also not be allowed to withhold performance, terminate, accelerate or in any other way modify executory contracts during the stay period, provided the debtor continues to comply with its existing obligations under such contracts. Early termination would endanger the ability of the business to continue operating during restructuring negotiations, especially when it concerns contracts for essential supplies such as gas, electricity, water, telecoms and card payment services. However, in order to protect the legitimate interests of creditors and to ensure the least disruption to the operation of creditors in the supply chain, the stay should only apply in respect of the claims which arose before the stay was granted. In order to achieve a successful restructuring, the debtor should pay in the ordinary course of business claims of and owed to creditors unaffected by the stay and the claims of creditors affected by the stay that arise after the stay is granted.

##### *Amendment*

(21) Creditors to which the stay applies should also not be allowed to withhold performance, terminate, accelerate or in any other way modify executory contracts during the stay period, provided the debtor continues to comply with its existing obligations under such contracts. Early termination would endanger the ability of the business to continue operating during restructuring negotiations, especially when it concerns contracts for essential supplies such as gas, electricity, water, telecoms and card payment services. However, in order to protect the legitimate interests of creditors and to ensure the least disruption to the operation of creditors in the supply chain, the stay should only apply in respect of the claims which arose before the stay was granted. In order to achieve a successful restructuring, the debtor should pay in the ordinary course of business claims of and owed to **priority** creditors unaffected by the stay and the claims of creditors affected by the stay that arise after the stay is granted.

**Amendment 90****Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz****Proposal for a directive****Recital 21***Text proposed by the Commission*

(21) Creditors to which the stay applies should also not be allowed to withhold performance, terminate, accelerate or in any other way modify executory contracts during the stay period, provided the debtor continues to comply with its existing obligations under such contracts. Early termination would endanger the ability of the business to continue operating during restructuring negotiations, especially when it concerns contracts for essential supplies such as gas, electricity, water, telecoms and card payment services. However, in order to protect the legitimate interests of creditors and to ensure the least disruption to the operation of creditors in the supply chain, the stay should only apply in respect of the claims which arose before the stay was granted. In order to achieve a successful restructuring, the debtor should pay in the ordinary course of business claims of and owed to creditors unaffected by the stay and the claims of creditors affected by the stay that arise after the stay is granted.

*Amendment*

(21) Creditors to which the stay applies should also not be allowed to withhold performance, terminate, accelerate or in any other way modify executory contracts during the stay period, provided the debtor continues to comply with its existing obligations under such contracts. Early termination would endanger the ability of the business to continue operating during restructuring negotiations ***or that of individual consumers and users to continue to have access to minimum goods and services that are necessary to be able to live a decent life***, especially when it concerns contracts for essential supplies such as gas, electricity, water, telecoms and card payment services ***or access to premises or their habitual home, as appropriate***. However, in order to protect the legitimate interests of creditors and to ensure the least disruption to the operation of creditors in the supply chain, the stay should only apply in respect of the claims which arose before the stay was granted. In order to achieve a successful restructuring, the debtor should pay in the ordinary course of business claims of and owed to creditors unaffected by the stay and the claims of creditors affected by the stay that arise after the stay is granted.

**Amendment 91****Heinz K. Becker**

**Proposal for a directive**  
**Recital 22**

*Text proposed by the Commission*

*Amendment*

**(22) When a debtor enters an insolvency procedure, some suppliers may have contractual rights entitling them to terminate the supply contract solely on account of the insolvency (known as ipso facto clauses). The same may be true when a debtor applies for preventive restructuring measures. Where such clauses are invoked when the debtor is merely negotiating a restructuring plan or requesting a stay of enforcement or in connection with any event connected with the stay, early termination may have a negative impact on the debtor's business and the successful rescue of the business. Therefore, when the stay is granted by a judicial or administrative authority, it is necessary that creditors to which the stay applies are not allowed to invoke ipso facto clauses which make reference to negotiations on a restructuring plan or a stay or any similar event connected to the stay.**

**deleted**

Or. de

**Amendment 92**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**  
**Recital 22**

*Text proposed by the Commission*

*Amendment*

**(22) When a debtor enters an insolvency procedure, some suppliers may have contractual rights entitling them to terminate the supply contract solely on account of the insolvency (known as ipso facto clauses). The same may be true when a debtor applies for preventive**

**(22) When a debtor enters an insolvency procedure, some suppliers may have contractual rights entitling them to terminate the supply contract solely on account of the insolvency (known as ipso facto clauses). The same may be true when a debtor applies for preventive**



restructuring measures. Where such clauses are invoked when the debtor is merely negotiating a restructuring plan or requesting a stay of enforcement or in connection with any event connected with the stay, early termination may have a negative impact on the debtor's business and the successful rescue of the business. Therefore, when the stay is granted by a judicial or administrative authority, it is necessary that creditors to which the stay applies are not allowed to invoke ipso facto clauses which make reference to negotiations on a restructuring plan or a stay or any similar event connected to the stay.

restructuring measures. Where such clauses are invoked when the debtor is merely negotiating a restructuring plan or requesting a stay of enforcement or in connection with any event connected with the stay, early termination may have a negative impact on the debtor's business and the successful rescue of the business ***or on the decent living conditions to which any citizen is entitled.*** Therefore, when the stay is granted by a judicial or administrative authority, it is necessary that creditors to which the stay applies are not allowed to invoke ipso facto clauses which make reference to negotiations on a restructuring plan or a stay or any similar event connected to the stay.

Or. es

**Amendment 93**  
**Heinz K. Becker**

**Proposal for a directive**  
**Recital 23**

*Text proposed by the Commission*

*Amendment*

***(23) Creditors should have the right to challenge the stay once it has been granted by a judicial or administrative authority. When the stay is no longer necessary with a view to facilitating the adoption of a restructuring plan, for example because it is clear that there is a lack of support for the restructuring from a majority of creditors as required by national law, creditors should also be able to ask that stay be lifted.***

***deleted***

Or. de

**Amendment 94**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 23**

*Text proposed by the Commission*

(23) Creditors should have the right to challenge the stay once it has been granted by a judicial or administrative authority. When the stay is no longer necessary with a view to facilitating the adoption of a restructuring plan, for example because it is clear that there is a lack of support for the restructuring from a majority of creditors as required by national law, creditors should also be able to ask that stay be lifted.

*Amendment*

(23) Creditors should have the right to challenge the stay once it has been granted by a judicial or administrative authority, ***for example by providing information demonstrating the probability of misconduct on the part of a dishonest entrepreneur.*** When the stay is no longer necessary with a view to facilitating the adoption of a restructuring plan, for example because it is clear that there is a lack of support for the restructuring from a majority of creditors as required by national law, creditors should also be able to ask that stay be lifted.

Or. fr

**Amendment 95**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 24**

*Text proposed by the Commission*

(24) Any ***creditors*** affected by the restructuring plan and, where allowed under national law, equity-holders should have a right to vote on the adoption of a restructuring plan. Parties unaffected by the restructuring plan should have no voting rights in relation to the plan, nor should their support be required for the approval of any plan. The vote can take the form of a formal voting process or of a consultation and agreement with the required majority of affected parties. However, where the vote takes the form of a consultation and agreement, affected parties whose agreement was not necessary should nevertheless be offered the possibility to join the restructuring plan.

*Amendment*

(24) Any ***parties*** affected by the restructuring plan and, where allowed under national law, equity-holders should have a right to vote on the adoption of a restructuring plan. Parties unaffected by the restructuring plan should have no voting rights in relation to the plan, nor should their support be required for the approval of any plan. The vote can take the form of a formal voting process or of a consultation and agreement with the required majority of affected parties. However, where the vote takes the form of a consultation and agreement, affected parties whose agreement was not necessary should nevertheless be offered the possibility to join the restructuring plan.

**Amendment 96****Dominique Martin, Mara Bizzotto, Joëlle Mélin****Proposal for a directive****Recital 25***Text proposed by the Commission*

(25) To ensure that rights which are substantially similar are treated equitably and that restructuring plans can be adopted without unfairly prejudicing the rights of affected parties, affected parties should be treated in separate classes which reflect the class formation criteria under national law. As a minimum, secured and unsecured creditors should always be treated in separate classes. National law may provide that secured claims may be divided into secured and unsecured claims based on collateral valuation. National law may also stipulate specific rules supporting class formation where non-diversified or otherwise especially vulnerable creditors, such as workers or small suppliers, would benefit from such class formation. National laws should in any case ensure that adequate treatment is given to matters of particular importance for class formation purposes, such as claims from connected parties, and should contain rules that deal with contingent claims and contested claims. The judicial or administrative authority should examine class formation when a restructuring plan is submitted for confirmation, but Member States could stipulate that such authorities may also examine class formation at an earlier stage should the proposer of the plan seek validation or guidance in advance.

*Amendment*

(25) To ensure that rights which are substantially similar are treated equitably and that restructuring plans can be adopted without unfairly prejudicing the rights of affected parties, affected parties should be treated in separate classes which reflect the class formation criteria under national law. As a minimum, secured and unsecured creditors should always be treated in separate classes. National law may provide that secured claims may be divided into secured and unsecured claims based on collateral valuation. National law may also stipulate specific rules supporting class formation where non-diversified or otherwise especially vulnerable creditors, such as workers or small suppliers, would benefit from such class formation. ***Workers should, at all events, be given preferential treatment. In order to prevent chain bankruptcies, suppliers/clients with fewer than 50 employees should be treated as a priority class of creditors when activities essential to their survival are at stake.*** National laws should in any case ensure that adequate treatment is given to matters of particular importance for class formation purposes, such as claims from connected parties, and should contain rules that deal with contingent claims and contested claims. The judicial or administrative authority should examine class formation when a restructuring plan is submitted for confirmation, but Member States could stipulate that such authorities may also examine class formation at an earlier stage should the proposer of the plan seek

validation or guidance in advance.

Or. fr

## **Amendment 97**

**Edouard Martin, Jutta Steinruck, Agnes Jongerius, Sergio Gutiérrez Prieto, Javi López, Elena Gentile, Maria Arena**

### **Proposal for a directive**

#### **Recital 25**

##### *Text proposed by the Commission*

(25) To ensure that rights which are substantially similar are treated equitably and that restructuring plans can be adopted without unfairly prejudicing the rights of affected parties, affected parties should be treated in separate classes which reflect the class formation criteria under national law. As a minimum, secured and unsecured creditors should always be treated in separate classes. National law may provide that secured claims may be divided into secured and unsecured claims based on collateral valuation. National law may also stipulate specific rules supporting class formation where non-diversified or otherwise especially vulnerable creditors, such as workers or small suppliers, would benefit from such class formation. National laws should in any case ensure that adequate treatment is given to matters of particular importance for class formation purposes, such as claims from connected parties, and should contain rules that deal with contingent claims and contested claims. The judicial or administrative authority should examine class formation when a restructuring plan is submitted for confirmation, but Member States could stipulate that such authorities may also examine class formation at an earlier stage should the proposer of the plan seek validation or guidance in advance.

##### *Amendment*

(25) To ensure that rights which are substantially similar are treated equitably and that restructuring plans can be adopted without unfairly prejudicing the rights of affected parties, affected parties should be treated in separate classes which reflect the class formation criteria under national law. As a minimum, secured and unsecured creditors should always be treated in separate classes. National law may provide that secured claims may be divided into secured and unsecured claims based on collateral valuation. National law may also stipulate specific rules supporting class formation where non-diversified or otherwise especially vulnerable creditors, such as workers or small suppliers, would benefit from such class formation. ***Workers should, at all events, be given preferential treatment and special consideration as potential buyers.*** National laws should in any case ensure that adequate treatment is given to matters of particular importance for class formation purposes, such as claims from connected parties, and should contain rules that deal with contingent claims and contested claims. The judicial or administrative authority should examine class formation when a restructuring plan is submitted for confirmation, but Member States could stipulate that such authorities may also examine class formation at an earlier stage should the proposer of the plan seek validation or guidance in

advance.

Or. fr

**Amendment 98**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 26**

*Text proposed by the Commission*

(26) *Requisite majorities should be established by national law to ensure that a minority of affected parties in each class cannot obstruct the adoption of restructuring plan which does not unfairly reduce their rights and interests. Without a majority rule binding dissenting secured creditors, early restructuring would not be possible in many cases, for example where a financial restructuring is needed but the business is otherwise viable.* To ensure that parties have a say on the adoption of restructuring plans proportionate to the stakes they have in the business, the required majority should be based on the *amount of the creditors' claims or equity holders' interests in any given class.*

*Amendment*

(26) To ensure that parties have a say on the adoption of restructuring plans proportionate to the stakes they have in the business, the required majority should be based on the *degree of importance of the claim to the survival of the creditor's business and then on the size of that claim or stake as a percentage of all the other claims and stakes which the creditor holds.*

Or. fr

**Amendment 99**  
**Heinz K. Becker**

**Proposal for a directive**  
**Recital 26**

*Text proposed by the Commission*

(26) Requisite majorities should be established by national law to ensure that a minority of affected parties in each class cannot obstruct the adoption of

*Amendment*

(26) Requisite majorities should be established by national law to ensure that a minority of affected parties in each class cannot obstruct the adoption of

restructuring plan which does not unfairly reduce their rights and interests. Without a majority rule binding dissenting secured creditors, early restructuring would not be possible in many cases, for example where a financial restructuring is needed but the business is otherwise viable. To ensure that parties have a say on the adoption of restructuring plans proportionate to the stakes they have in the business, the **required** majority should be based on the amount of the creditors' claims or equity holders' interests in any given class.

restructuring plan which does not unfairly reduce their rights and interests. Without a majority rule binding dissenting secured creditors, early restructuring would not be possible in many cases, for example where a financial restructuring is needed but the business is otherwise viable. To ensure that parties have a say on the adoption of restructuring plans proportionate to the stakes they have in the business, the majority should be based **both** on the **number of creditor class members with voting rights and on the majority of the total volume** of the creditors' claims or equity holders' interests in any given class.

Or. de

#### **Amendment 100**

**Karima Delli**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Recital 26**

##### *Text proposed by the Commission*

(26) Requisite majorities should be established by national law to ensure that a minority of affected parties in each class cannot obstruct the adoption of restructuring plan which does not unfairly reduce their rights and interests. Without a majority rule binding dissenting secured creditors, early restructuring would not be possible in many cases, for example where a financial restructuring is needed but the business is otherwise viable. To ensure that parties have a say on the adoption of restructuring plans proportionate to the stakes they have in the business, the required majority should be based on the amount of the creditors' claims or equity holders' interests in any given class.

##### *Amendment*

(26) Requisite majorities should be established by national law to ensure that a minority of affected parties in each class cannot obstruct the adoption of restructuring plan which does not unfairly reduce their rights and interests. Without a majority rule binding dissenting secured creditors, early restructuring would not be possible in many cases, for example where a financial restructuring is needed but the business is otherwise viable. To ensure that parties have a say on the adoption of restructuring plans proportionate to the stakes they have in the business, the required majority should be based on the amount of the creditors' claims or equity holders' interests in any given class.  
***Workers as a class should be exempt from this provision.***

**Amendment 101**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Recital 27**

*Text proposed by the Commission*

*Amendment*

**(27) *The 'best interest of creditors' test makes it possible to ensure that no dissenting creditor is worse off under the restructuring plan than they would be in the case of liquidation, whether that means piecemeal liquidation or sale of the business as a going concern. That test should be applied in any case where a plan needs to be confirmed in order to be binding over dissenting creditors or, as the case may be, dissenting classes of creditors.*** **deleted**

Or. fr

**Amendment 102**

**Heinz K. Becker**

**Proposal for a directive**

**Recital 28**

*Text proposed by the Commission*

*Amendment*

**(28) *While a restructuring plan should always be deemed adopted if the required majority in each affected class supports the plan, a restructuring plan which is not supported by the required majority in each affected class may still be confirmed by a judicial or administrative authority provided that it is supported by at least one affected class of creditors and that dissenting classes are not unfairly prejudiced under the proposed plan (the cross-class cram-down mechanism). In*** **deleted**

*particular, the plan should abide by the absolute priority rule which ensures that a dissenting class of creditors is paid in full before a more junior class can receive any distribution or keep any interest under the restructuring plan. The absolute priority rule serves as a basis for the value to be allocated among the creditors in restructuring. As a corollary to the absolute priority rule, no class of creditors can receive or keep under the restructuring plan economic values or benefits exceeding the full amount of the claims or interests of such class. The absolute priority rule makes it possible to determine, when compared to the capital structure of the enterprise under restructuring, the value allocation that parties are to receive under the restructuring plan on the basis of the value of the enterprise as a going concern.*

Or. de

### **Amendment 103**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

#### **Recital 28**

*Text proposed by the Commission*

(28) While a restructuring plan should always be deemed adopted if the required majority in each affected class supports the plan, a restructuring plan which is not supported by the required majority in each affected class may still be confirmed by a judicial or administrative authority provided that it is supported by at least one affected class of creditors **and that dissenting classes are not unfairly prejudiced under the proposed plan (the cross-class cram-down mechanism)**. In particular, the plan should abide by the absolute priority rule which ensures that a

*Amendment*

(28) While a restructuring plan should always be deemed adopted if the required majority in each affected class supports the plan, a restructuring plan which is not supported by the required majority in each affected class may still be confirmed by a judicial or administrative authority provided that it is supported by **the entrepreneur or the workers and** at least one affected class of **priority** creditors. In particular, the plan should abide by the absolute priority rule which ensures that a dissenting class of creditors is paid in full before a more junior class can receive any



dissenting class of creditors is paid in full before a more junior class can receive any distribution or keep any interest under the restructuring plan. The absolute priority rule serves as a basis for the value to be allocated among the creditors in restructuring. As a corollary to the absolute priority rule, no class of creditors can receive or keep under the restructuring plan economic values or benefits exceeding the full amount of the claims or interests of such class. *The absolute priority rule makes it possible to determine, when compared to the capital structure of the enterprise under restructuring, the value allocation that parties are to receive under the restructuring plan on the basis of the value of the enterprise as a going concern.*

distribution or keep any interest under the restructuring plan. The absolute priority rule serves as a basis for the value to be allocated among the creditors in restructuring. As a corollary to the absolute priority rule, no class of creditors can receive or keep under the restructuring plan economic values or benefits exceeding the full amount of the claims or interests of such class.

Or. fr

#### **Amendment 104**

**Karima Delli**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Recital 28**

###### *Text proposed by the Commission*

(28) While a restructuring plan should always be deemed adopted if the required majority in each affected class supports the plan, a restructuring plan which is not supported by the required majority in each affected class may still be confirmed by a judicial or administrative authority provided that it is supported by at least one affected class of creditors and that dissenting classes are not unfairly prejudiced under the proposed plan (the cross-class cram-down mechanism). In particular, the plan should abide by the absolute priority rule which ensures that a dissenting class of creditors is paid in full before a more junior class can receive any

###### *Amendment*

(28) While a restructuring plan should always be deemed adopted if the required majority in each affected class supports the plan, a restructuring plan which is not supported by the required majority in each affected class may still be confirmed by a judicial or administrative authority provided that it is supported by at least one affected class of creditors and that dissenting classes are not unfairly prejudiced under the proposed plan (the cross-class cram-down mechanism). In particular, the plan should abide by the absolute priority rule which ensures that a dissenting class of creditors is paid in full before a more junior class can receive any

distribution or keep any interest under the restructuring plan. The absolute priority rule serves as a basis for the value to be allocated among the creditors in restructuring. As a corollary to the absolute priority rule, no class of creditors can receive or keep under the restructuring plan economic values or benefits exceeding the full amount of the claims or interests of such class. The absolute priority rule makes it possible to determine, when compared to the capital structure of the enterprise under restructuring, the value allocation that parties are to receive under the restructuring plan on the basis of the value of the enterprise as a going concern.

distribution or keep any interest under the restructuring plan. The absolute priority rule serves as a basis for the value to be allocated among the creditors in restructuring. As a corollary to the absolute priority rule, no class of creditors can receive or keep under the restructuring plan economic values or benefits exceeding the full amount of the claims or interests of such class. The absolute priority rule makes it possible to determine, when compared to the capital structure of the enterprise under restructuring, the value allocation that parties are to receive under the restructuring plan on the basis of the value of the enterprise as a going concern. ***The cross-class cram-down mechanism should not apply to workers because they are in a more vulnerable class and should therefore not be able to be simply overruled.***

Or. en

**Amendment 105**  
**Heinz K. Becker**

**Proposal for a directive**  
**Recital 29**

*Text proposed by the Commission*

***(29) While shareholders' or other equity holders' legitimate interests should be protected, Member States should ensure that shareholders cannot unreasonably block the adoption of restructuring plans which would bring the debtor back to viability. For example, the adoption of a restructuring plan should not be conditional on the agreement of the out-of-the-money equity holders, namely equity holders who, upon a valuation of the enterprise, would not receive any payment or other consideration if the normal ranking of liquidation priorities were applied. Member States can deploy***

*Amendment*

***deleted***

*different means to achieve this goal, for example by not giving equity holders the right to vote on a restructuring plan. However, where equity holders have the right to vote on a restructuring plan, a judicial or administrative authority should be able to confirm the plan notwithstanding the dissent of one or more classes of equity holders, through a cross-class cram down mechanism. More classes of equity holders may be needed where different classes of shareholdings with different rights exist. Equity holders of small and medium enterprises who are not mere investors but are the owners of the firm and contribute to the firm in other ways such as managerial expertise may not have an incentive to restructure under such conditions. For this reason, the cross-class cram-down mechanism should remain optional for the plan proposer.*

Or. de

**Amendment 106**  
**Maria Arena**

**Proposal for a directive**  
**Recital 29**

*Text proposed by the Commission*

(29) While shareholders' or other equity holders' legitimate interests should be protected, Member States should ensure that shareholders cannot unreasonably block the adoption of restructuring plans which would bring the debtor back to viability. For example, the adoption of a restructuring plan should not be conditional on the agreement of the out-of-the-money equity holders, namely equity holders who, upon a valuation of the enterprise, would not receive any payment or other consideration if the normal ranking of liquidation priorities were applied. Member

*Amendment*

(29) While shareholders' or other equity holders' legitimate interests should be protected, Member States should ensure that shareholders cannot unreasonably block the adoption of restructuring plans which would bring the debtor back to viability ***or enable the viable parts of its business to be continued by another enterprise after its transfer***. For example, the adoption of a restructuring plan should not be conditional on the agreement of the out-of-the-money equity holders, namely equity holders who, upon a valuation of the enterprise, would not receive any payment

States can deploy different means to achieve this goal, for example by not giving equity holders the right to vote on a restructuring plan. However, where equity holders have the right to vote on a restructuring plan, a judicial or administrative authority should be able to confirm the plan notwithstanding the dissent of one or more classes of equity holders, through a cross-class cram down mechanism. More classes of equity holders may be needed where different classes of shareholdings with different rights exist. Equity holders of small and medium enterprises who are not mere investors but are the owners of the firm and contribute to the firm in other ways such as managerial expertise may not have an incentive to restructure under such conditions. For this reason, the cross-class cram-down mechanism should remain optional for the plan proposer.

or other consideration if the normal ranking of liquidation priorities were applied. Member States can deploy different means to achieve this goal, for example by not giving equity holders the right to vote on a restructuring plan. However, where equity holders have the right to vote on a restructuring plan, a judicial or administrative authority should be able to confirm the plan notwithstanding the dissent of one or more classes of equity holders, through a cross-class cram down mechanism. More classes of equity holders may be needed where different classes of shareholdings with different rights exist. Equity holders of small and medium enterprises who are not mere investors but are the owners of the firm and contribute to the firm in other ways such as managerial expertise may not have an incentive to restructure under such conditions. For this reason, the cross-class cram-down mechanism should remain optional for the plan proposer.

Or. fr

## **Amendment 107**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

### **Proposal for a directive**

#### **Recital 30**

##### *Text proposed by the Commission*

(30) Confirmation of a restructuring plan by a judicial or administrative authority is necessary to ensure that the reduction of the rights of creditors or interests of equity holders is proportionate to the benefits of the restructuring and that they have access to an effective remedy. ***The judicial or administrative authority should therefore reject a plan where it has been established that the attempted restructuring reduces the rights of dissenting creditors or equity holders***

##### *Amendment*

(30) Confirmation of a restructuring plan by a judicial or administrative authority is necessary to ensure that the reduction of the rights of creditors or interests of equity holders is proportionate to the benefits of the restructuring and that they have access to an effective remedy. However, where the plan is confirmed through a cross-class cram-down mechanism, the absolute priority rule should be applied by reference to the enterprise valuation which, as opposed to

*below what they could reasonably expect to receive in the event of the liquidation of the debtor's business, either by piecemeal liquidation or by a sale as a going concern, depending on the particular circumstances of each debtor.* However, where the plan is confirmed through a cross-class cram-down mechanism, the absolute priority rule should be applied by reference to the enterprise valuation which, as opposed to the going-concern liquidation valuation of the enterprise, looks at the value of the debtor's business in the longer term. The enterprise valuation is, as a rule, higher than the going-concern liquidation value because it captures the fact that the business continues its activity and contracts with the minimum disruption, has the confidence of financial creditors, shareholders and clients, continues to generate revenues and limits the impact on workers.

the going-concern liquidation valuation of the enterprise, looks at the value of the debtor's business in the longer term. The enterprise valuation is, as a rule, higher than the going-concern liquidation value because it captures the fact that the business continues its activity and contracts with the minimum disruption, has the confidence of financial creditors, shareholders and clients, continues to generate revenues and limits the impact on workers.

Or. fr

## **Amendment 108**

**Karima Delli**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 31**

##### *Text proposed by the Commission*

(31) The success of a restructuring plan may often depend on whether there are financial resources in place to support first the operation of the business during restructuring negotiations and second the implementation of the restructuring plan after its confirmation. *New financing or interim financing should therefore be exempt from avoidance actions which seek to declare such financing void, voidable or unenforceable as an act detrimental to the general body of creditors in the context of subsequent*

##### *Amendment*

(31) The success of a restructuring plan may often depend on whether there are financial resources in place to support first the operation of the business during restructuring negotiations and second the implementation of the restructuring plan after its confirmation. National insolvency laws providing for avoidance actions if and when the debtor becomes eventually insolvent or stipulating that new lenders may incur civil, administrative or criminal sanctions for extending credit to debtors in financial difficulties are jeopardising the

***insolvency procedures.*** National insolvency laws providing for avoidance actions if and when the debtor becomes eventually insolvent or stipulating that new lenders may incur civil, administrative or criminal sanctions for extending credit to debtors in financial difficulties are jeopardising the availability of financing necessary for the successful negotiation and implementation of a restructuring plan. As opposed to new financing which should be confirmed by a judicial or administrative authority as part of a restructuring plan, when interim financing is extended the parties do not know whether the plan will be eventually confirmed or not. ***Limiting the protection of interim finance to cases where the plan is adopted by creditors or confirmed by a judicial or administrative authority would discourage the provision of interim finance.*** To avoid potential abuses, only financing that is reasonably and immediately necessary for the continued operation or survival of the debtor's business or the preservation or enhancement of the value of that business pending the confirmation of that plan should be protected. Protection from avoidance actions and protection from personal liability are minimum guarantees granted to interim financing and new financing. ***However, encouraging new lenders to take the enhanced risk of investing in a viable debtor in financial difficulties may require further incentives such as for example giving such financing priority at least over unsecured claims in subsequent insolvency procedures.***

availability of financing necessary for the successful negotiation and implementation of a restructuring plan. As opposed to new financing which should be confirmed by a judicial or administrative authority as part of a restructuring plan, when interim financing is extended the parties do not know whether the plan will be eventually confirmed or not. To avoid potential abuses, only financing that is reasonably and immediately necessary for the continued operation or survival of the debtor's business or the preservation or enhancement of the value of that business pending the confirmation of that plan should be protected. Protection from avoidance actions and protection from personal liability are minimum guarantees granted to interim financing and new financing.

Or. en

## **Amendment 109**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 31**

*Text proposed by the Commission*

(31) The success of a restructuring plan may often depend on whether there are financial resources in place to support first the operation of the business during restructuring negotiations and second the implementation of the restructuring plan after its confirmation. New financing or interim financing should therefore be exempt from avoidance actions which seek to declare such financing void, voidable or unenforceable as an act detrimental to the general body of creditors in the context of subsequent insolvency procedures. National insolvency laws providing for avoidance actions if and when the debtor becomes eventually insolvent or stipulating that new lenders may incur civil, administrative or criminal sanctions for extending credit to debtors in financial difficulties are jeopardising the availability of financing necessary for the successful negotiation and implementation of a restructuring plan. As opposed to new financing which should be confirmed by a judicial or administrative authority as part of a restructuring plan, when interim financing is extended the parties do not know whether the plan will be eventually confirmed or not. Limiting the protection of interim finance to cases where the plan is adopted by creditors or confirmed by a judicial or administrative authority would discourage the provision of interim finance. To avoid potential abuses, only financing that is reasonably and immediately necessary for the continued operation or survival of the debtor's business or the preservation or enhancement of the value of that business pending the confirmation of that plan should be protected. Protection from avoidance actions and protection from personal liability are minimum guarantees granted to interim financing and new

*Amendment*

(31) The success of a restructuring plan may often depend on whether there are financial resources in place to support first the operation of the business during restructuring negotiations and second the implementation of the restructuring plan after its confirmation. New financing or interim financing should therefore be exempt from avoidance actions which seek to declare such financing void, voidable or unenforceable as an act detrimental to the general body of creditors in the context of subsequent insolvency procedures, ***unless these transactions have been offset by the extremely high return granted contractually by the entrepreneur or were carried out fraudulently or dishonestly. That is the case if the period covered by the financing solution was unreasonably short.*** National insolvency laws providing for avoidance actions if and when the debtor becomes eventually insolvent or stipulating that new lenders may incur civil, administrative or criminal sanctions for extending credit to debtors in financial difficulties are jeopardising the availability of financing necessary for the successful negotiation and implementation of a restructuring plan. As opposed to new financing which should be confirmed by a judicial or administrative authority as part of a restructuring plan, when interim financing is extended the parties do not know whether the plan will be eventually confirmed or not. Limiting the protection of interim finance to cases where the plan is adopted by creditors or confirmed by a judicial or administrative authority would discourage the provision of interim finance. To avoid potential abuses, only financing that is reasonably and immediately necessary for the continued operation or survival of the debtor's business or the preservation or

financing. However, encouraging new lenders to take the enhanced risk of investing in a viable debtor in financial difficulties may require further incentives such as for example giving such financing priority at least over unsecured claims in subsequent insolvency procedures.

enhancement of the value of that business pending the confirmation of that plan should be protected. Protection from avoidance actions and protection from personal liability are minimum guarantees granted to interim financing and new financing. However, encouraging new lenders to take the enhanced risk of investing in a viable debtor in financial difficulties may require further incentives such as for example giving such financing priority at least over unsecured claims in subsequent insolvency procedures, ***without, however, giving them priority over the claims of workers or creditors who are suppliers/clients with fewer than 50 employees.***

Or. fr

#### **Amendment 110**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

#### **Recital 32**

##### *Text proposed by the Commission*

(32) Interested affected parties should have the possibility to appeal a decision on the confirmation of a restructuring plan. However, in order to ensure the effectiveness of the plan, to reduce uncertainty and to avoid unjustifiable delays, appeals should not have suspensive effects on the implementation of a restructuring plan. ***Where it is established that minority creditors have suffered unjustifiable detriment under the plan, Member States should consider, as an alternative to setting aside the plan, the provision of monetary compensation to the respective dissenting creditors payable by the debtor or the creditors who voted in favour of the plan.***

##### *Amendment*

(32) Interested affected parties should have the possibility to appeal a decision on the confirmation of a restructuring plan. However, in order to ensure the effectiveness of the plan, to reduce uncertainty and to avoid unjustifiable delays, appeals should not have suspensive effects on the implementation of a restructuring plan.

Or. fr



**Amendment 111**  
**Heinz K. Becker**

**Proposal for a directive**  
**Recital 32**

*Text proposed by the Commission*

(32) Interested affected parties should have the possibility to appeal a decision on the confirmation of a restructuring plan. ***However, in order to ensure the effectiveness of the plan, to reduce uncertainty and to avoid unjustifiable delays, appeals should not have suspensive effects on the implementation of a restructuring plan.*** Where it is established that minority creditors have suffered unjustifiable detriment under the plan, Member States should consider, as an alternative to setting aside the plan, the provision of monetary compensation to the respective dissenting creditors payable by the debtor or the creditors who voted in favour of the plan.

*Amendment*

(32) Interested affected parties should have the possibility to appeal a decision on the confirmation of a restructuring plan. Where it is established that minority creditors have suffered unjustifiable detriment under the plan, Member States should consider, as an alternative to setting aside the plan, the provision of monetary compensation to the respective dissenting creditors payable by the debtor or the creditors who voted in favour of the plan.

Or. de

**Amendment 112**  
**Claudiu Ciprian Tănăsescu**

**Proposal for a directive**  
**Recital 32**

*Text proposed by the Commission*

(32) Interested affected parties should have the possibility to appeal a decision on the confirmation of a restructuring plan. However, in order to ensure the effectiveness of the plan, to reduce uncertainty and to avoid unjustifiable delays, appeals should not have suspensive effects on the implementation of a restructuring plan. Where it is established

*Amendment*

(32) Interested affected parties should have the possibility to appeal a decision on the confirmation of a restructuring plan. However, in order to ensure the effectiveness of the ***restructuring*** plan, to reduce uncertainty and to avoid unjustifiable delays, appeals should not have suspensive effects on the implementation of a restructuring plan.

that minority creditors have suffered unjustifiable detriment under the plan, Member States should consider, as an alternative to setting aside the plan, the provision of monetary compensation to the respective dissenting creditors payable by the debtor or the creditors who voted in favour of the plan.

Where it is established that minority creditors have suffered unjustifiable detriment under the plan, Member States should consider, as an alternative to setting aside the **restructuring** plan, the provision of monetary compensation to the respective dissenting creditors payable by the debtor or the creditors who voted in favour of the plan.

Or. ro

## Amendment 113

Maria Arena

### Proposal for a directive

#### Recital 34

##### *Text proposed by the Commission*

(34) Throughout the preventive restructuring procedures, workers should enjoy full labour law protection. ***In particular***, this Directive is without prejudice to workers' rights guaranteed by Council Directive 98/59/EC<sup>68</sup>, Council Directive 2001/23/EC<sup>69</sup>, Directive 2002/14/EC of the European Parliament and of the Council<sup>70</sup>, Directive 2008/94/EC of the European Parliament and of the Council<sup>71</sup> and Directive 2009/38/EC of the European Parliament and of the Council<sup>72</sup>. The obligations concerning the information and consultation of workers under national law implementing the above-mentioned Directives remain fully intact. This includes obligations to inform and consult workers' representatives on the decision to have recourse to a preventive restructuring framework in accordance with Directive 2002/14/EC. Given the need to ensure an appropriate level of protection of workers, Member States should in principle exempt workers' outstanding claims, as defined in Directive 2008/94/EC, from any stay of enforcement irrespective of the question whether these claims arise before or after

##### *Amendment*

(34) Throughout the preventive restructuring procedures, workers should enjoy full labour law protection. ***If*** this Directive is without prejudice to workers' rights guaranteed by Council Directive 98/59/EC<sup>68</sup>, Council Directive 2001/23/EC<sup>69</sup>, Directive 2002/14/EC of the European Parliament and of the Council<sup>70</sup>, Directive 2008/94/EC of the European Parliament and of the Council<sup>71</sup> and Directive 2009/38/EC of the European Parliament and of the Council<sup>72</sup>, ***it shall lay down arrangements for the exercise of these rights which make it possible to safeguard jobs and economic activity, in particular the confidentiality necessary for that purpose, whilst guaranteeing the effective exercise of those rights***. The obligations concerning the information and consultation of workers under national law implementing the above-mentioned Directives remain fully intact. This includes obligations to inform and consult workers' representatives on the decision to have recourse to a preventive restructuring framework in accordance with Directive 2002/14/EC. Given the need to ensure an

the stay is granted. Such a stay should be permissible only for the amounts and for the period that the payment of such claims is effectively guaranteed by other means under national law. Where Member States extend the cover of the guarantee of payment of workers' outstanding claims established by Directive 2008/94/EC to preventive restructuring procedures set up by this Directive, the exemption of workers' claims from the stay of enforcement is no longer justified to the extent covered by that guarantee. Where under national law there are limitations to the liability of guarantee institutions, either in terms of the length of the guarantee or the amount paid to workers, workers should be able to enforce their claims for any shortfall against the employer even during the stay of enforcement period.

appropriate level of protection of workers, Member States should in principle exempt workers' outstanding claims, as defined in Directive 2008/94/EC, from any stay of enforcement irrespective of the question whether these claims arise before or after the stay is granted. Such a stay should be permissible only for the amounts and for the period that the payment of such claims is effectively guaranteed by other means under national law. Where Member States extend the cover of the guarantee of payment of workers' outstanding claims established by Directive 2008/94/EC to preventive restructuring procedures set up by this Directive, the exemption of workers' claims from the stay of enforcement is no longer justified to the extent covered by that guarantee. Where under national law there are limitations to the liability of guarantee institutions, either in terms of the length of the guarantee or the amount paid to workers, workers should be able to enforce their claims for any shortfall against the employer even during the stay of enforcement period.

---

<sup>68</sup> Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, OJ L 225, 12.08.1998, p. 16.

<sup>69</sup> Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, OJ L 82, 22.03.2001, p. 16.

<sup>70</sup> Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community, OJ L 80, 23.3.2002, p. 29.

<sup>71</sup> Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of

---

<sup>68</sup> Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, OJ L 225, 12.08.1998, p. 16.

<sup>69</sup> Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, OJ L 82, 22.03.2001, p. 16.

<sup>70</sup> Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community, OJ L 80, 23.3.2002, p. 29.

<sup>71</sup> Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of

employees in the event of the insolvency of their employer, OJ L 283, 28.10.2008, p. 36.

<sup>72</sup> Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works council or a procedure in Community-scale undertakings and community-scale groups of undertakings for the purpose of informing and consulting employees, OJ L 122, 16.5.2009, p. 28.

employees in the event of the insolvency of their employer, OJ L 283, 28.10.2008, p. 36.

<sup>72</sup> Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works council or a procedure in Community-scale undertakings and community-scale groups of undertakings for the purpose of informing and consulting employees, OJ L 122, 16.5.2009, p. 28.

Or. fr

## **Amendment 114**

**Enrique Calvet Chambon, Robert Rochefort**

### **Proposal for a directive**

#### **Recital 34**

##### *Text proposed by the Commission*

(34) Throughout the preventive restructuring procedures, workers should enjoy full labour law protection. In particular, this Directive is without prejudice to workers' rights guaranteed by Council Directive 98/59/EC<sup>68</sup>, Council Directive 2001/23/EC<sup>69</sup>, Directive 2002/14/EC of the European Parliament and of the Council<sup>70</sup>, Directive 2008/94/EC of the European Parliament and of the Council<sup>71</sup> and Directive 2009/38/EC of the European Parliament and of the Council<sup>72</sup>. The obligations concerning the information and consultation of workers under national law implementing the above-mentioned Directives remain fully intact. This includes obligations to inform and consult workers' representatives on the decision to have recourse to a preventive restructuring framework in accordance with Directive 2002/14/EC. Given the need to ensure an appropriate level of protection of workers, Member States should *in principle* exempt

##### *Amendment*

(34) Throughout the preventive restructuring procedures, workers should enjoy full labour law protection. In particular, this Directive is without prejudice to workers' rights guaranteed by Council Directive 98/59/EC<sup>68</sup>, Council Directive 2001/23/EC<sup>69</sup>, Directive 2002/14/EC of the European Parliament and of the Council<sup>70</sup>, Directive 2008/94/EC of the European Parliament and of the Council<sup>71</sup> and Directive 2009/38/EC of the European Parliament and of the Council<sup>72</sup>. The obligations concerning the information and consultation of workers under national law implementing the above-mentioned Directives remain fully intact. This includes obligations to inform and consult workers' representatives on the decision to have recourse to a preventive restructuring framework in accordance with Directive 2002/14/EC. Given the need to ensure an appropriate level of protection of workers, Member States should in exempt workers'

workers' outstanding claims, as defined in Directive 2008/94/EC, from any stay of enforcement irrespective of the question whether these claims arise before or after the stay is granted. Such a stay should be permissible only for the amounts and for the period that the payment of such claims is effectively guaranteed by other means under national law. Where Member States extend the cover of the guarantee of payment of workers' outstanding claims established by Directive 2008/94/EC to preventive restructuring procedures set up by this Directive, the exemption of workers' claims from the stay of enforcement is no longer justified to the extent covered by that guarantee. Where under national law there are limitations to the liability of guarantee institutions, either in terms of the length of the guarantee or the amount paid to workers, workers should be able to enforce their claims for any shortfall against the employer even during the stay of enforcement period.

---

<sup>68</sup> Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, OJ L 225, 12.08.1998, p. 16.

<sup>69</sup> Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, OJ L 82, 22.03.2001, p. 16.

<sup>70</sup> Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community, OJ L 80, 23.3.2002, p. 29.

<sup>71</sup> Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer, OJ L 283, 28.10.2008, p.

outstanding claims, as defined in Directive 2008/94/EC, from any stay of enforcement irrespective of the question whether these claims arise before or after the stay is granted. Such a stay should be permissible only for the amounts and for the period that the payment of such claims is effectively guaranteed by other means under national law. Where Member States extend the cover of the guarantee of payment of workers' outstanding claims established by Directive 2008/94/EC to preventive restructuring procedures set up by this Directive, the exemption of workers' claims from the stay of enforcement is no longer justified to the extent covered by that guarantee. Where under national law there are limitations to the liability of guarantee institutions, either in terms of the length of the guarantee or the amount paid to workers, workers should be able to enforce their claims for any shortfall against the employer even during the stay of enforcement period.

---

<sup>68</sup> Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, OJ L 225, 12.08.1998, p. 16.

<sup>69</sup> Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, OJ L 82, 22.03.2001, p. 16.

<sup>70</sup> Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community, OJ L 80, 23.3.2002, p. 29.

<sup>71</sup> Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer, OJ L 283, 28.10.2008, p.

36.

<sup>72</sup> Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works council or a procedure in Community-scale undertakings and community-scale groups of undertakings for the purpose of informing and consulting employees, OJ L 122, 16.5.2009, p. 28.

36.

<sup>72</sup> Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works council or a procedure in Community-scale undertakings and community-scale groups of undertakings for the purpose of informing and consulting employees, OJ L 122, 16.5.2009, p. 28.

Or. fr

### **Amendment 115**

**Karima Delli**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 35**

#### *Text proposed by the Commission*

(35) Where a restructuring plan entails a transfer of part of undertaking or business, workers' rights arising from a contract of employment or from an employment relationship, notably including the right to wages, should be safeguarded in accordance with Articles 3 and 4 of Directive 2001/23/EC, without prejudice to the specific rules applying in the event of insolvency proceedings under Article 5 of that Directive and in particular the possibilities allowed by Article 5(2) of that Directive. Furthermore, in addition and without prejudice to the rights to information and consultation, including on decisions likely to lead to substantial changes in work organisation or in contractual relations with a view to reaching an agreement on such decisions, which are guaranteed by Directive 2002/14/EC, under this Directive workers who are affected by the restructuring plan should have the right to vote on the plan. For the purposes of voting on the

#### *Amendment*

(35) Where a restructuring plan entails a transfer of part of undertaking or business, workers' rights arising from a contract of employment or from an employment relationship, notably including the right to wages, should be safeguarded in accordance with Articles 3 and 4 of Directive 2001/23/EC, without prejudice to the specific rules applying in the event of insolvency proceedings under Article 5 of that Directive and in particular the possibilities allowed by Article 5(2) of that Directive. Furthermore, in addition and without prejudice to the rights to information and consultation, including on decisions likely to lead to substantial changes in work organisation or in contractual relations with a view to reaching an agreement on such decisions, which are guaranteed by Directive 2002/14/EC, under this Directive workers who are affected by the restructuring plan should have the right to vote on the plan. For the purposes of voting on the

restructuring plan, Member States *may decide to* place workers in a class separate from other classes of creditors.

restructuring plan, Member States *should* place workers in a class separate from other classes of creditors.

Or. en

## **Amendment 116**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

### **Proposal for a directive**

#### **Recital 35**

##### *Text proposed by the Commission*

(35) Where a restructuring plan entails a transfer of part of undertaking or business, workers' rights arising from a contract of employment or from an employment relationship, notably including the right to wages, should be safeguarded in accordance with Articles 3 and 4 of Directive 2001/23/EC, without prejudice to the specific rules applying in the event of insolvency proceedings under Article 5 of that Directive and in particular the possibilities allowed by Article 5(2) of that Directive. Furthermore, in addition and without prejudice to the rights to information and consultation, including on decisions likely to lead to substantial changes in work organisation or in contractual relations with a view to reaching an agreement on such decisions, which are guaranteed by Directive 2002/14/EC, under this Directive workers who are affected by the restructuring plan should have the right to vote on the plan. For the purposes of voting on the restructuring plan, Member States *may decide to* place workers in a class separate from other classes of creditors.

##### *Amendment*

(35) Where a restructuring plan entails a transfer of part of undertaking or business, workers' rights arising from a contract of employment or from an employment relationship, notably including the right to wages, should be safeguarded in accordance with Articles 3 and 4 of Directive 2001/23/EC, without prejudice to the specific rules applying in the event of insolvency proceedings under Article 5 of that Directive and in particular the possibilities allowed by Article 5(2) of that Directive. Furthermore, in addition and without prejudice to the rights to information and consultation, including on decisions likely to lead to substantial changes in work organisation or in contractual relations with a view to reaching an agreement on such decisions, which are guaranteed by Directive 2002/14/EC, under this Directive workers who are affected by the restructuring plan should have the right to vote on the plan. For the purposes of voting on the restructuring plan, Member States *shall* place workers in a class separate from other classes of creditors.

Or. fr

## Amendment 117

**Maria Arena**

### Proposal for a directive

#### Recital 35

##### *Text proposed by the Commission*

(35) Where a restructuring plan entails a transfer of part of undertaking or business, workers' rights arising from a contract of employment or from an employment relationship, notably including the right to wages, should be safeguarded in accordance with Articles 3 and 4 of Directive 2001/23/EC, without prejudice to the specific rules applying in the event of insolvency proceedings under Article 5 of that Directive and in particular the possibilities allowed by Article 5(2) of that Directive. Furthermore, in addition and without prejudice to the rights to information and consultation, including on decisions likely to lead to substantial changes in work organisation or in contractual relations with a view to reaching an agreement on such decisions, which are guaranteed by Directive 2002/14/EC, under this Directive workers who are affected by the restructuring plan should have the right to vote on the plan. For the purposes of voting on the restructuring plan, Member States may decide to place workers in a class separate from other classes of creditors.

##### *Amendment*

(35) Where a restructuring plan entails a transfer of part of undertaking or business, workers' rights arising from a contract of employment or from an employment relationship, notably including the right to wages, should be safeguarded in accordance with Articles 3 and 4 of Directive 2001/23/EC, without prejudice to the specific rules applying in the event of insolvency proceedings under Article 5 of that Directive and in particular the possibilities allowed by Article 5(2) of that Directive. Furthermore, in addition and without prejudice to the rights to information and consultation, including on decisions likely to lead to substantial changes in work organisation or in contractual relations with a view to reaching an agreement on such decisions, which are guaranteed by Directive 2002/14/EC, under this Directive workers who are affected by the restructuring plan should have the right to vote on the plan. For the purposes of voting on the restructuring plan, Member States may decide to place workers in a class separate from other classes of creditors. ***Due account should be taken of the rulings handed down by the Court of Justice, as Advocate-General Mengozzi recently pointed out in his conclusions in Case C-126/16.***

Or. fr

## Amendment 118

**Karima Delli**

on behalf of the Verts/ALE Group



**Proposal for a directive**  
**Recital 35 a (new)**

*Text proposed by the Commission*

*Amendment*

***(35a) Any proposed restructuring operation should be fully explained to workers' representatives who should be given such information about the proposed restructuring as to enable them to undertake an in-depth assessment and to prepare for consultations, where appropriate<sup>1 a</sup>.***

---

***<sup>1a</sup> (P7\_TA(2013)0005 Information and consultation of workers, anticipation and management of restructuring)***

Or. en

**Amendment 119**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 36**

*Text proposed by the Commission*

*Amendment*

(36) To further promote preventive restructurings, it is important to ensure that directors are not dissuaded from exercising reasonable business judgment or taking reasonable commercial risks, particularly where to do so would improve the chances for the restructuring of potentially viable businesses. Where the enterprise experiences financial difficulties, directors should take such steps as seeking professional advice, including on restructuring and insolvency, for instance by making use of early warning tools where applicable; protecting the assets of the company so as to maximize value and avoid loss of key assets; considering the structure and functions of the business to examine viability and reduce expenditure;

(36) To further promote preventive restructurings, it is important to ensure that directors are not dissuaded from exercising reasonable business judgment or taking reasonable commercial risks, particularly where to do so would improve the chances for the restructuring of potentially viable businesses. Where the enterprise experiences financial difficulties, directors should take such steps as seeking professional advice, including on restructuring and insolvency, for instance by making use of early warning tools where applicable; protecting the assets of the company so as to maximize value and avoid loss of key assets; considering the structure and functions of the business to examine viability and reduce expenditure;

not committing the company to the types of transaction that might be subject to avoidance unless there is an appropriate business justification; continuing to trade in circumstances where it is appropriate to do so to maximize going concern value; holding negotiations with creditors and entering preventive restructuring procedures. Where the debtor is in the vicinity of insolvency, it is also important to protect the legitimate interests of **creditors** from management decisions that may have an impact on the constitution of the debtor's estate, in particular where those decisions may have the effect of further diminishing the value of the estate available for restructuring efforts or for distribution to creditors. It is therefore necessary that in such circumstances directors avoid any deliberate or grossly negligent actions that result in personal gain at the expense of stakeholders, agreeing to transactions at under value, or taking actions leading to unfair preference of one or more stakeholders over others. Directors for the purposes of this Directive should be persons responsible for taking decisions concerning the management of the company.

not committing the company to the types of transaction that might be subject to avoidance unless there is an appropriate business justification; continuing to trade in circumstances where it is appropriate to do so to maximize going concern value; holding negotiations with creditors and entering preventive restructuring procedures. Where the debtor is in the vicinity of insolvency, it is also important to protect the legitimate interests of **the entrepreneur** from management decisions that may have an impact on the constitution of the debtor's estate, in particular where those decisions may have the effect of further diminishing the value of the estate available for restructuring efforts or for distribution to creditors. It is therefore necessary that in such circumstances directors avoid any deliberate or grossly negligent actions that result in personal gain at the expense of stakeholders, agreeing to transactions at under value, or taking actions leading to unfair preference of one or more stakeholders over others. Directors for the purposes of this Directive should be persons responsible for taking decisions concerning the management of the company. **Member States may make provision for the recovery of excessive bonuses paid to directors during the period covered by the stay or restructuring plan. These sums may be distributed to the debtors.**

Or. fr

## Amendment 120

Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz

### Proposal for a directive

#### Recital 37

*Text proposed by the Commission*

(37) The different second chance possibilities in the Member States may

*Amendment*

(37) The different second chance possibilities in the Member States, **or in**

incentivise over-indebted entrepreneurs to relocate to Member States in order to benefit from shorter discharge periods or more attractive conditions for discharge, leading to additional legal uncertainty and costs for the creditors when recovering their claims. Furthermore, the effects of bankruptcy, in particular the social stigma, legal consequences such as disqualifying entrepreneurs from taking up and pursuing entrepreneurial activity *and* the on-going inability to pay off debts constitute important disincentives for entrepreneurs seeking to set up a business or have a second chance, even if evidence shows that entrepreneurs who have gone bankrupt have more chance to be successful the second time. Steps should therefore be taken to reduce the negative effects of over-indebtedness and bankruptcy on entrepreneurs, in particular by allowing for a full discharge of debts after a certain period of time and by limiting the length of disqualification orders issued in connection with the debtor's over-indebtedness.

*some cases the lack of such possibilities,* may incentivise over-indebted entrepreneurs to relocate to Member States in order to benefit from shorter discharge periods or more attractive conditions for discharge, leading to additional legal uncertainty and costs for the creditors when recovering their claims. Furthermore, the effects of bankruptcy, in particular the social stigma, legal consequences such as disqualifying entrepreneurs from taking up and pursuing entrepreneurial activity, *along with eviction proceedings or lack of access to basic supplies necessary for decent subsistence resulting from cases of over-indebtedness involving consumers who are not entrepreneurs, together with* the on-going inability to pay off debts constitute important disincentives for entrepreneurs seeking to set up a business or *consumers wishing to avoid the marginalisation and exclusion that being forced to resort to the undeclared, irregular or black economy would entail and* have a second chance, even if evidence shows that entrepreneurs who have gone bankrupt have more chance to be successful the second time *and that consumers freed of their debts are more likely to make regular and legal contributions to tax and social security systems and avoid being exposed to exploitation and precarious conditions.* Steps should therefore be taken to reduce the negative effects of over-indebtedness and bankruptcy on entrepreneurs, in particular by allowing for a full discharge of debts after a certain period of time and by limiting the length of disqualification orders issued in connection with the debtor's over-indebtedness.

Or. es

**Amendment 121**  
**Maria Arena**

**Proposal for a directive**  
**Recital 37**

*Text proposed by the Commission*

(37) The different second chance possibilities in the Member States may incentivise over-indebted entrepreneurs to relocate to Member States in order to benefit from shorter discharge periods or more attractive conditions for discharge, leading to additional legal uncertainty and costs for the creditors when recovering their claims. Furthermore, the effects of bankruptcy, in particular the social stigma, legal consequences such as disqualifying entrepreneurs from taking up and pursuing entrepreneurial activity and the on-going inability to pay off debts constitute important disincentives for entrepreneurs seeking to set up a business or have a second chance, even if evidence shows that entrepreneurs who have gone bankrupt have more chance to be successful the second time. Steps should therefore be taken to reduce the negative effects of over-indebtedness and bankruptcy on entrepreneurs, in particular by allowing for a full discharge of debts after a certain period of time and by limiting the length of disqualification orders issued in connection with the debtor's over-indebtedness.

*Amendment*

(37) The different second chance possibilities in the Member States may incentivise over-indebted entrepreneurs to relocate to Member States in order to benefit from shorter discharge periods or more attractive conditions for discharge, leading to additional legal uncertainty and costs for the creditors when recovering their claims. Furthermore, the effects of bankruptcy, in particular the social stigma, legal consequences such as disqualifying entrepreneurs from taking up and pursuing entrepreneurial activity and the on-going inability to pay off debts constitute important disincentives for entrepreneurs seeking to set up a business or have a second chance, even if evidence shows that entrepreneurs who have gone bankrupt have more chance to be successful the second time. Steps should therefore be taken to reduce the negative effects of over-indebtedness and bankruptcy on entrepreneurs, in particular by allowing for a full discharge of debts after a certain period of time, ***by establishing a liability regime which both incentivises early and responsible action and punishes the failure to take such action***, and by limiting the length of disqualification orders issued in connection with the debtor's over-indebtedness.

Or. fr

**Amendment 122**  
**Claudiu Ciprian Tănăsescu**

**Proposal for a directive**  
**Recital 38**

*Text proposed by the Commission*

(38) A full discharge or the end of disqualification after a short period of time are not appropriate in all circumstances, for instance in cases where the debtor is dishonest or has acted in bad faith. Member States should provide clear guidance to judicial or administrative authorities on **how to assess** the honesty of the entrepreneur. For example, in establishing whether the debtor was dishonest, judicial or administrative authorities may take into account circumstances such as the nature and extent of the debts, the time when these were incurred, the efforts of the debtor to meet the debts and comply with legal obligations including public licensing requirements and proper bookkeeping, and actions on his or her part to frustrate recourse by creditors. Disqualification orders may last longer or indefinitely in situations where the entrepreneur exercises certain professions which are considered sensitive in the Member States or where he or she was convicted for criminal activities. In such cases it would be possible for entrepreneurs to benefit from a discharge of debt, but still be disqualified for a longer period of time or indefinitely from exercising a particular profession.

*Amendment*

(38) A full discharge or the end of disqualification after a short period of time are not appropriate in all circumstances, for instance in cases where the debtor is dishonest or has acted in bad faith. Member States should provide clear guidance **and criteria** to judicial or administrative authorities on **the method for assessing** the honesty of the entrepreneur. For example, in establishing whether the debtor was dishonest, judicial or administrative authorities may take into account circumstances such as the nature and extent of the debts, the time when these were incurred, the efforts of the debtor to meet the debts and comply with legal obligations including public licensing requirements and proper bookkeeping, and actions on his or her part to frustrate recourse by creditors. Disqualification orders may last longer or indefinitely in situations where the entrepreneur exercises certain professions which are considered sensitive in the Member States or where he or she was convicted for criminal activities. In such cases it would be possible for entrepreneurs to benefit from a discharge of debt, but still be disqualified for a longer period of time or indefinitely from exercising a particular profession.

Or. ro

**Amendment 123**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**

**Recital 38**

*Text proposed by the Commission*

(38) A full discharge or the end of disqualification after a short period of time are not appropriate in all circumstances, for

*Amendment*

(38) A full discharge or the end of disqualification after a short period of time are not appropriate in all circumstances, for

instance in cases where the debtor is dishonest or has acted in bad faith. Member States should provide clear guidance to judicial or administrative authorities on how to assess the honesty of the entrepreneur. For example, in establishing whether the debtor was dishonest, judicial or administrative authorities may take into account circumstances such as the nature and extent of the debts, the time when these were incurred, the efforts of the debtor to meet the debts and comply with legal obligations including public licensing requirements and proper bookkeeping, and actions on his or her part to frustrate recourse by creditors. Disqualification orders may last longer or indefinitely in situations where the entrepreneur exercises certain professions which are considered sensitive in the Member States or where he or she was convicted for criminal activities. In such cases it would be possible for entrepreneurs to benefit from a discharge of debt, but still be disqualified for a longer period of time or indefinitely from exercising a particular profession.

instance in cases where the debtor is dishonest or has acted in bad faith. Member States should provide clear guidance to judicial or administrative authorities on how to assess the honesty of the entrepreneur *or consumer*. For example, in establishing whether the debtor was dishonest, judicial or administrative authorities may take into account circumstances such as the nature and extent of the debts, the time when these were incurred, the efforts of the debtor to meet the debts and comply with legal obligations including public licensing requirements and proper bookkeeping, and actions on his or her part to frustrate recourse by creditors. Disqualification orders may last longer or indefinitely in situations where the entrepreneur exercises certain professions which are considered sensitive in the Member States or where he or she was convicted for criminal activities. In such cases it would be possible for entrepreneurs to benefit from a discharge of debt, but still be disqualified for a longer period of time or indefinitely from exercising a particular profession.

Or. es

## **Amendment 124**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

### **Proposal for a directive**

#### **Recital 39**

##### *Text proposed by the Commission*

(39) It is necessary to maintain and enhance the transparency and predictability of the procedures in delivering outcomes that are favourable for the preservation of businesses and for giving entrepreneurs a second chance *or that permit the efficient liquidation of non-viable enterprises*. It is also necessary to reduce the excessive length of insolvency procedures in many

##### *Amendment*

(39) It is necessary to maintain and enhance the transparency and predictability of the procedures in delivering outcomes that are favourable for the preservation of businesses *and for maintaining decent living conditions for citizens*, and for giving entrepreneurs *and consumers who are not entrepreneurs* a second chance. It is also necessary to reduce the excessive

Member States, which results in legal uncertainty for creditors and investors and low recovery rates. Finally, given the enhanced cooperation mechanisms between courts and practitioners in cross-border cases set up by Regulation (EU) 2015/848, the professionalism of all actors involved needs to be brought to comparable high levels across the Union. To achieve these objectives, Member States should ensure that members of the judicial and administrative bodies are properly trained and have specialised knowledge and experience in insolvency matters. Such specialisation of members of the judiciary should allow making decisions with potentially significant economic and social impacts within a short period of time and should not mean that members of the judiciary have to deal exclusively with restructuring, insolvency and second chance matters. For example, the creation of specialised courts or chambers in accordance with national law governing the organisation of the judicial system could be an efficient way of achieving these objectives.

length of insolvency procedures in many Member States, which results in legal uncertainty for creditors and investors and low recovery rates, *along with serious problems of poverty and the risk of social and labour exclusion*. Finally, given the enhanced cooperation mechanisms between courts and practitioners in cross-border cases set up by Regulation (EU) 2015/848, the professionalism of all actors involved needs to be brought to comparable high levels across the Union. To achieve these objectives, Member States should ensure that members of the judicial and administrative bodies are properly trained and have specialised knowledge and experience in insolvency matters *in the case of both entrepreneurs and consumers who are not entrepreneurs*. Such specialisation of members of the judiciary should allow making decisions with potentially significant economic and social impacts within a short period of time and should not mean that members of the judiciary have to deal exclusively with restructuring, insolvency and second chance matters. For example, the creation of specialised courts or chambers in accordance with national law governing the organisation of the judicial system could be an efficient way of achieving these objectives.

Or. es

**Amendment 125**  
**Enrique Calvet Chambon**

**Proposal for a directive**  
**Recital 39**

*Text proposed by the Commission*

(39) It is necessary to maintain and enhance the transparency and predictability of the procedures in delivering outcomes that are favourable for the preservation of

*Amendment*

(39) It is necessary to maintain and enhance the transparency and predictability of the procedures in delivering outcomes that are favourable for the preservation of

businesses and for giving entrepreneurs a second chance or that permit the efficient liquidation of non-viable enterprises. It is also necessary to reduce the excessive length of insolvency procedures in many Member States, which results in legal uncertainty for creditors and investors and low recovery rates. Finally, given the enhanced cooperation mechanisms between courts and practitioners in cross-border cases set up by Regulation (EU) 2015/848, the professionalism of all actors involved needs to be brought to comparable high levels across the Union. To achieve these objectives, Member States should ensure that members of the judicial and administrative bodies are properly trained and have specialised knowledge and experience in insolvency matters. Such specialisation of members of the judiciary should allow making decisions with potentially significant economic and social impacts within a short period of time and should not mean that members of the judiciary have to deal exclusively with restructuring, insolvency and second chance matters. For example, the creation of *specialised* courts or chambers in accordance with national law governing the organisation of the judicial system could be an efficient way of achieving these objectives.

businesses and for giving entrepreneurs a second chance or that permit the efficient liquidation of non-viable enterprises. It is also necessary to reduce the excessive length of insolvency procedures in many Member States, which results in legal uncertainty for creditors and investors and low recovery rates. Finally, given the enhanced cooperation mechanisms between courts and practitioners in cross-border cases set up by Regulation (EU) 2015/848, the professionalism of all actors involved needs to be brought to comparable high levels across the Union. To achieve these objectives, Member States should ensure that members of the judicial and administrative bodies are properly trained and have specialised knowledge and experience in insolvency matters. Such specialisation of members of the judiciary should allow making decisions with potentially significant economic and social impacts within a short period of time and should not mean that members of the judiciary have to deal exclusively with restructuring, insolvency and second chance matters. For example, the creation of courts or chambers with *specialist magistrates* in accordance with national law governing the organisation of the judicial system could be an efficient way of achieving these objectives.

Or. fr

## **Amendment 126**

**Maria Arena**

### **Proposal for a directive**

#### **Recital 39**

##### *Text proposed by the Commission*

(39) It is necessary to maintain and enhance the transparency and predictability of the procedures in delivering outcomes that are favourable for the preservation of

##### *Amendment*

(39) It is necessary to maintain and enhance the transparency and predictability of the procedures in delivering outcomes that are favourable for the preservation of



businesses and for giving entrepreneurs a second chance or that permit the efficient liquidation of non-viable enterprises. It is also necessary to reduce the excessive length of insolvency procedures in many Member States, which results in legal uncertainty for creditors and investors and low recovery rates. Finally, given the enhanced cooperation mechanisms between courts and practitioners in cross-border cases set up by Regulation (EU) 2015/848, the professionalism of all actors involved needs to be brought to comparable high levels across the Union. To achieve these objectives, Member States should ensure that members of the judicial and administrative bodies are properly trained and have specialised knowledge and experience in insolvency matters. Such specialisation of members of the judiciary should allow making decisions with potentially significant economic and social impacts within a short period of time and should not mean that members of the judiciary have to deal exclusively with restructuring, insolvency and second chance matters. For example, the creation of specialised courts or chambers in accordance with national law governing the organisation of the judicial system could be an efficient way of achieving these objectives.

businesses and for giving entrepreneurs a second chance or that permit the efficient liquidation of non-viable enterprises. It is also necessary to reduce the excessive length of insolvency procedures in many Member States, which results in legal uncertainty for creditors and investors and low recovery rates. *That reduction may in particular be secured by introducing, as a first step, confidential procedures which make it possible, in part by virtue of that confidentiality, to prepare the plan or the assignment without the loss of value which would occur if that intention were to be made public.* Finally, given the enhanced cooperation mechanisms between courts and practitioners in cross-border cases set up by Regulation (EU) 2015/848 *and applicable to public procedures*, the professionalism of all actors involved needs to be brought to comparable high levels across the Union. To achieve these objectives, Member States should ensure that members of the judicial and administrative bodies are properly trained and have specialised knowledge and experience in insolvency matters. Such specialisation of members of the judiciary should allow making decisions with potentially significant economic and social impacts within a short period of time and should not mean that members of the judiciary have to deal exclusively with restructuring, insolvency and second chance matters. For example, the creation of specialised courts or chambers in accordance with national law governing the organisation of the judicial system could be an efficient way of achieving these objectives.

Or. fr

**Amendment 127**  
**Jana Žitňanská**

**Proposal for a directive**  
**Recital 39**

*Text proposed by the Commission*

(39) It is necessary to maintain and enhance the transparency and predictability of the procedures in delivering outcomes that are favourable for the preservation of businesses and for giving entrepreneurs a second chance or that permit the efficient liquidation of non-viable enterprises. It is also necessary to reduce the excessive length of insolvency procedures in many Member States, which results in legal uncertainty for creditors and investors and low recovery rates. Finally, given the enhanced cooperation mechanisms between courts and practitioners in cross-border cases set up by Regulation (EU) 2015/848, the professionalism of all actors involved needs to be brought to comparable high levels across the Union. To achieve these objectives, Member States should ensure that members of the judicial and administrative bodies are properly trained and have specialised knowledge and experience in insolvency matters. Such specialisation of members of the judiciary should allow making decisions with potentially significant economic and social impacts within a short period of time and should not mean that members of the judiciary have to deal exclusively with restructuring, insolvency and second chance matters. For example, the creation of specialised courts or chambers in accordance with national law governing the organisation of the judicial system could be an efficient way of achieving these objectives.

*Amendment*

(39) It is necessary to maintain and enhance the transparency and predictability of the procedures in delivering outcomes that are favourable for the preservation of businesses and for giving entrepreneurs a second chance or that permit the efficient liquidation of non-viable enterprises. ***To this end, the Commission is urged to consider creating a single European point of contact for the sale of assets of non-viable enterprises. This would avoid fragmentation of sales and enhance the value of company assets, as well as increasing the recovery rate for creditors, including employees.*** It is also necessary to reduce the excessive length of insolvency procedures in many Member States, which results in legal uncertainty for creditors and investors and low recovery rates. Finally, given the enhanced cooperation mechanisms between courts and practitioners in cross-border cases set up by Regulation (EU) 2015/848, the professionalism of all actors involved needs to be brought to comparable high levels across the Union. To achieve these objectives, Member States should ensure that members of the judicial and administrative bodies are properly trained and have specialised knowledge and experience in insolvency matters. Such specialisation of members of the judiciary should allow making decisions with potentially significant economic and social impacts within a short period of time and should not mean that members of the judiciary have to deal exclusively with restructuring, insolvency and second chance matters. For example, the creation of specialised courts or chambers in accordance with national law governing the organisation of the judicial system could be an efficient way of achieving these objectives.

**Amendment 128**  
**Enrique Calvet Chambon**

**Proposal for a directive**  
**Recital 40**

*Text proposed by the Commission*

(40) Member States should also ensure that the practitioners in the field of restructuring, insolvency and second chance which are appointed by judicial or administrative authorities are properly trained and supervised in the carrying out of their tasks, that they are appointed in a transparent manner with due regard to the need to ensure efficient procedures and that they perform their tasks with integrity. Practitioners should *also* adhere to *voluntary codes* of conduct aiming at ensuring an appropriate level of qualification and training, transparency of the duties of such practitioners and the rules for determining their remuneration, the taking up of professional indemnity insurance cover and the establishment of oversight and regulatory mechanisms which should include an appropriate and effective regime for sanctioning those who have failed in their duties. Such standards may be attained without the need in principle to create new professions or qualifications.

*Amendment*

(40) Member States should also ensure that the practitioners in the field of restructuring, insolvency and second chance which are appointed by judicial or administrative authorities are properly trained and supervised in the carrying out of their tasks, that they are appointed in a transparent manner with due regard to the need to ensure efficient procedures and that they perform their tasks with integrity ***bearing in mind the objective of restoring the viability of the company.*** Practitioners should ***be rescuers not liquidators and they should*** adhere to ***a code*** of conduct aiming at ensuring an appropriate level of qualification and training, transparency of the duties of such practitioners and the rules for determining their remuneration, the taking up of professional indemnity insurance cover and the establishment of oversight and regulatory mechanisms which should include an appropriate and effective regime for sanctioning those who have failed in their duties. Such standards may be attained without the need in principle to create new professions or qualifications.

Or. en

**Amendment 129**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 41**

*Text proposed by the Commission*

(41) To further reduce the length of procedures and at the same time ensure a better participation of creditors in restructuring, insolvency and discharge procedures and to ensure similar conditions for creditors irrespective of where they are located in the Union, Member States should put in place distance means of communication in court procedures. Therefore, it should be possible that procedural steps such as the filing of claims by creditors, the notifications sent by the debtor or by practitioners in the field of restructuring, insolvency and second chance, voting on a restructuring plan or lodging appeals take place electronically. The cross-border recognition of such communications should comply with Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>73</sup>.

---

<sup>73</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

*Amendment*

(41) To **increase their chances of success and** further reduce the length of procedures and at the same time ensure a better participation of creditors in restructuring, insolvency and discharge procedures and to ensure similar conditions for creditors irrespective of where they are located in the Union, Member States should put in place distance means of communication in court procedures. Therefore, it should be possible that procedural steps such as the filing of claims by creditors, the notifications sent by the debtor or by practitioners in the field of restructuring, insolvency and second chance, voting on a restructuring plan or lodging appeals take place electronically. The cross-border recognition of such communications should comply with Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>73</sup>.

---

<sup>73</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

Or. fr

**Amendment 130**  
**Jana Žitňanská**

**Proposal for a directive**  
**Recital 42**

*Text proposed by the Commission*

(42) It is important to gather reliable data on the performance of restructuring, insolvency and discharge procedures in

*Amendment*

(42) It is important to gather reliable data on the performance of restructuring, insolvency and discharge procedures in

order to monitor the implementation and application of this Directive. Therefore Member States should collect and aggregate data that is sufficiently granular to enable an accurate assessment of how the Directive works in practice.

order to monitor the implementation and application of this Directive. Therefore Member States should collect and aggregate data that is sufficiently granular to enable an accurate assessment of how the Directive works in practice. ***Particular emphasis should be put on the collection of data, in which there are currently significant differences, such as data on the length of insolvency procedures and data on creditors' recovery rates, whether such data is secured or not.***

Or. sk

**Amendment 131**  
**Paloma López Bermejo**

**Proposal for a directive**  
**Recital 46 a (new)**

*Text proposed by the Commission*

*Amendment*

***(46a) Under no circumstances should workers bear the burden of restructuring, insolvency and discharge procedures, and the debts owing to them (such as unpaid wages) should always be recovered in full and without delay. In order to guarantee the continuity of production and employment and to better fight tactical or fraudulent practices by management, workers should also be informed and consulted at the initial stage of restructuring, insolvency and discharge procedures.***

Or. en

**Amendment 132**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Recital 47**

*Text proposed by the Commission*

*Amendment*

**(47) Since the objectives of this Directive cannot be sufficiently achieved by the Member States acting alone because differences between national restructuring and insolvency frameworks would continue to raise obstacles to the free movement of capital and the freedom of establishment, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,**

**deleted**

Or. fr

### **Amendment 133**

**Karima Delli**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) preventive restructuring procedures available for debtors in financial difficulty when there is a likelihood of insolvency;

(a) preventive restructuring procedures available for debtors in financial difficulty, **including** when there is a likelihood of insolvency;

Or. en

### *Justification*

*Preventive restructuring should also be available beyond the risk of insolvency*

## Amendment 134

Maria Arena

### Proposal for a directive

#### Article 1 – paragraph 1 – point a

*Text proposed by the Commission*

(a) preventive restructuring procedures available for debtors in financial difficulty when there is a likelihood of insolvency;

*Amendment*

(a) preventive restructuring procedures available for debtors in financial difficulty when there is a likelihood of insolvency ***or where the procedures are being used to resolve a short-term problem, to reduce the amount owed to all or some of the creditors or to transfer all or part of the viable business to another enterprise on the basis of arrangements which afford creditors a dividend at least as large as that which they would have received in the event of liquidation;***

Or. fr

## Amendment 135

Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz

### Proposal for a directive

#### Article 1 – paragraph 1 – point b

*Text proposed by the Commission*

(b) procedures leading to a discharge of debts incurred by over-indebted entrepreneurs and allowing them to take up a new activity;

*Amendment*

(b) procedures leading to a discharge of debts incurred by ***honest*** over-indebted entrepreneurs ***or natural persons who are not entrepreneurs (consumers who are not entrepreneurs)*** and allowing them to take up a new activity ***or to maintain decent living conditions;***

Or. es

## Amendment 136

Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz

**Proposal for a directive**  
**Article 1 – paragraph 2 – point g**

*Text proposed by the Commission*

*Amendment*

(g) *natural persons who are not entrepreneurs.*

*deleted*

Or. es

**Amendment 137**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**  
**Article 1 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Member States *may extend the application of the procedures referred to in* point (b) of paragraph 1 to over indebted natural persons who are not entrepreneurs.

3. Member States *shall, in accordance with* point (b) of paragraph 1, *apply the procedures provided for* to over indebted natural persons who are not entrepreneurs.

Or. es

**Amendment 138**

**Maria Arena, Edouard Martin**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 1**

*Text proposed by the Commission*

*Amendment*

(1) 'insolvency procedure' means a collective insolvency procedure which entails a partial or total divestment of the debtor and the appointment of a liquidator;

(1) 'insolvency procedure' means a collective insolvency procedure *opened by means of a public decision* which entails a partial or total divestment of the debtor and the appointment of a liquidator;

Or. fr



## Amendment 139

Maria Arena

### Proposal for a directive

#### Article 2 – paragraph 1 – point 2

*Text proposed by the Commission*

(2) 'restructuring' means **changing** the composition, conditions, or structure of a debtor's assets and liabilities or any other part of the debtor's capital structure, including share capital, or a combination of those elements, including sales of assets or **parts** of the business, with the objective of enabling the enterprise to continue in whole or in part;

*Amendment*

(2) 'restructuring' means **a procedure or measures, whether public or confidential, which make it possible to change** the composition, conditions, or structure of a debtor's assets and liabilities or any other part of the debtor's capital structure, including share capital, or a combination of those elements, including sales of assets or **all or part** of the business, with the objective of enabling the enterprise to continue in whole or in part;

Or. fr

## Amendment 140

Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz

### Proposal for a directive

#### Article 2 – paragraph 1 – point 2

*Text proposed by the Commission*

(2) 'restructuring' means changing the composition, conditions, or structure of a debtor's assets and liabilities or any other part of the debtor's capital structure, including share capital, or a combination of those elements, including sales of assets or parts of the business, with the objective of enabling the enterprise to continue in whole or in part;

*Amendment*

(2) 'restructuring' means changing the composition, conditions, or structure of a debtor's assets and liabilities or any other part of the debtor's capital structure, including share capital, **individual property** or a combination of those elements, including sales of assets or parts of the business **or of the natural person's property**, with the objective of enabling the enterprise **or consumer affected by debt** to continue in whole or in part **or to maintain decent conditions for their subsistence**;

Or. es

**Amendment 141**  
**Heinz K. Becker**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 4**

*Text proposed by the Commission*

*Amendment*

**4.** *'stay of individual enforcement actions' means a temporary suspension of the right to enforce a claim by a creditor against a debtor, ordered by a judicial or administrative authority;*

*deleted*

Or. de

**Amendment 142**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 6**

*Text proposed by the Commission*

*Amendment*

(6) 'class formation' means the grouping of affected creditors and equity holders in a restructuring plan in such a way as to reflect the rights and seniority of the affected claims and interests, taking into account possible pre-existing entitlements, liens or inter-creditor agreements, and their treatment under the restructuring plan;

(6) 'class formation' means the grouping of affected creditors and equity holders in a restructuring plan in such a way as to reflect the rights and seniority of the affected claims and interests, taking into account possible pre-existing entitlements, liens or inter-creditor agreements, and their treatment under the restructuring plan. ***Workers shall be a class of preferential creditors. In order to prevent chain bankruptcies, suppliers/clients with fewer than 50 employees shall be treated as a preferential class of creditors when activities essential to their survival are at stake. A creditor who is a dominant bank or dominant client whose deliberate actions have been shown to have given rise to the probability of insolvency shall be placed by the Member State in a separate, less preferential class.***

Or. fr

**Amendment 143**  
**Verónica Lope Fontagné**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 6**

*Text proposed by the Commission*

(6) 'class formation' means the grouping of affected creditors and equity holders in a restructuring plan in such a way as to reflect the rights and seniority of the affected claims and interests, taking into account possible pre-existing entitlements, liens or inter-creditor agreements, and their treatment under the restructuring plan;

*Amendment*

(6) 'class formation' means the grouping of affected creditors and equity holders in a restructuring plan in such a way as to reflect the rights and seniority of the affected claims and interests, taking into account possible pre-existing entitlements, liens or inter-creditor agreements, and their treatment under the restructuring plan; ***the Member States shall be responsible for delineating these categories;***

Or. es

**Amendment 144**  
**Heinz K. Becker**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 7**

*Text proposed by the Commission*

***7. 'cram-down of dissenting creditors' means the confirmation by a judicial or administrative authority of a restructuring plan that has the support of a majority in value of creditors or a majority in value in each and every class of creditors over the dissent of a minority of creditors or the dissent of a minority of creditors within each class;***

*Amendment*

***deleted***

Or. de

## Amendment 145

Maria Arena

### Proposal for a directive

#### Article 2 – paragraph 1 – point 7

*Text proposed by the Commission*

(7) 'cram-down of dissenting creditors' means the confirmation by a judicial or administrative authority of a restructuring plan that has the support of a majority in value of creditors or a majority in value in each and every class of creditors over the dissent of a minority of creditors or the dissent of a minority of creditors within each class;

*Amendment*

(7) 'cram-down of dissenting creditors' means the confirmation by a judicial or administrative authority of a restructuring plan that has the support of a majority in value of creditors or a majority in value in each and every class of creditors, ***or whose transfer price is not enough to pay all the creditors in full***, over the dissent of a minority of creditors or the dissent of a minority of creditors within each class ***or the dissent of the creditors who do not receive full payment of their claims***;

Or. fr

## Amendment 146

Heinz K. Becker

### Proposal for a directive

#### Article 2 – paragraph 1 – point 8

*Text proposed by the Commission*

8. ***'a cross-class cram-down' means the confirmation by a judicial or administrative authority of a restructuring plan over the dissent of one or several affected classes of creditors;***

*Amendment*

*deleted*

Or. de

## Amendment 147

Claudiu Ciprian Tănăsescu

### Proposal for a directive

#### Article 2 – paragraph 1 – point 12

*Text proposed by the Commission*

*Amendment*

(12) 'interim financing' means any funds, whether provided by an existing or new creditor, that is reasonably and immediately necessary for the debtor's business to continue operating or to survive, or to preserve or enhance the value of that business pending the confirmation of a restructuring plan;

*(Does not affect the English version.)*

Or. ro

#### **Amendment 148**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

#### **Proposal for a directive**

**Article 2 – paragraph 1 – point 13 a (new)**

*Text proposed by the Commission*

*Amendment*

*(13a) 'over-indebted non-business consumer' means a natural person not exercising a trade, business, craft or profession comparable to the activities of an employer, who, as a consumer or user of goods or public or private services, is temporarily or permanently unable to pay debts as they fall due;*

Or. es

#### **Amendment 149**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

**Article 2 – paragraph 1 – subparagraph 15 – point a**

*Text proposed by the Commission*

*Amendment*

(a) to assist the debtor or the creditors in drafting or negotiating a restructuring plan;

(a) to assist the debtor, *the workers* or the creditors in drafting or negotiating a restructuring plan;

**Amendment 150**

**Maria Arena, Edouard Martin**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 15 – point a**

*Text proposed by the Commission*

(a) to assist the debtor or the creditors in drafting or negotiating a restructuring plan;

*Amendment*

(a) to assist the debtor or the creditors in drafting or negotiating a ***viable*** restructuring ***or business wind-up*** plan;

Or. fr

**Amendment 151**

**Maria Arena**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 15 – point b**

*Text proposed by the Commission*

(b) to supervise the activity of the debtor during the negotiations on a restructuring plan and report to a judicial or administrative authority;

*Amendment*

(b) to supervise the activity of the debtor during the negotiations on a restructuring ***or business wind-up*** plan and report to a judicial or administrative authority;

Or. fr

**Amendment 152**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 3 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that ***debtors and*** entrepreneurs have access to

*Amendment*

1. Member States shall ensure that entrepreneurs have access to early warning

early warning tools which can detect a deteriorating business development and signal to the **debtor or** the entrepreneur the need to act as a matter of urgency.

tools which can detect a deteriorating business development and signal to the entrepreneur the need to act as a matter of urgency.

Or. fr

### **Amendment 153**

**Karima Delli**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 3 – paragraph 1**

##### *Text proposed by the Commission*

1. Member States shall ensure that debtors **and entrepreneurs** have access to early warning tools which can detect a deteriorating business development and signal to the debtor or the entrepreneur the need to act as a matter of urgency.

##### *Amendment*

1. Member States shall ensure that debtors, **entrepreneurs as well as workers and their representatives** have access to early warning tools which can detect a deteriorating business development and signal to the debtor or the entrepreneur the need to act as a matter of urgency.

Or. en

### **Amendment 154**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

### **Proposal for a directive**

#### **Article 3 – paragraph 1**

##### *Text proposed by the Commission*

1. Member States shall ensure that debtors and entrepreneurs have access to early warning tools which can detect a deteriorating business development and signal to the debtor or the entrepreneur the need to act as a matter of urgency.

##### *Amendment*

1. Member States shall ensure that debtors and entrepreneurs have access to early warning tools which can detect a deteriorating business development **or worsening consumer indebtedness** and signal to the debtor or the entrepreneur the need to act as a matter of urgency.

Or. es

## **Amendment 155**

**Karima Delli**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 3 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that debtors *and entrepreneurs* have access to relevant up-to-date, clear, concise and user-friendly information about the availability of early warning tools and any means available to them to restructure at an early stage or to obtain a discharge of personal debt.

*Amendment*

2. Member States shall ensure that debtors, *entrepreneurs as well as workers and their representatives* have access to relevant up-to-date, clear, concise and user-friendly information about the availability of early warning tools and any means available to them to restructure at an early stage or to obtain a discharge of personal debt.

Or. en

## **Amendment 156**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

### **Proposal for a directive**

#### **Article 3 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that *debtors and* entrepreneurs have access to relevant up-to-date, clear, concise and user-friendly information about the availability of early warning tools and any means available to them to restructure at an early stage or to obtain a discharge of personal debt.

*Amendment*

2. Member States shall ensure that entrepreneurs have access to relevant up-to-date, clear, concise and user-friendly information about the availability of early warning tools and any means available to them to restructure at an early stage or to obtain a discharge of personal debt.

Or. fr

## **Amendment 157**

**Verónica Lope Fontagné**

### **Proposal for a directive**

#### **Article 3 – paragraph 2 a (new)**



*Text proposed by the Commission*

*Amendment*

**2a.** *Member States shall ensure that employees' representatives have full access to information and are consulted if action needs to be taken;*

Or. es

### **Amendment 158**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive Article 3 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Member States *may limit the access provided for in paragraphs 1 and 2 to small and medium sized enterprises or to entrepreneurs.*

3. Member States *shall ensure that workers' representatives are in a position to warn entrepreneurs about matters giving cause for concern regarding the undertaking and the urgent need for action in this regard.*

Or. fr

### **Amendment 159**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive Article 3 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a.** *Member States shall ensure that workers' representatives are in a position to have recourse to an independent expert, funded by the undertaking or the State as they see fit, giving them access to relevant, up-to-date, clear, concise and user-friendly information regarding the situation of the undertaking. Member States are able limit the access provided for in paragraph 3a to enterprises with*

*over 150 employees.*

Or. fr

**Amendment 160**

**Edouard Martin, Jutta Steinruck, Agnes Jongerius, Sergio Gutiérrez Prieto, Javi López, Elena Gentile, Maria Arena**

**Proposal for a directive**

**Article 3 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Member States shall ensure that workers' representatives are in a position to have recourse to an expert funded by the undertaking, giving access to relevant, up-to-date, clear, concise and user-friendly information regarding the situation of the business and the different restructuring policies being envisaged, including transfer to worker ownership;***

Or. fr

**Amendment 161**

**Enrique Calvet Chambon**

**Proposal for a directive**

**Article 3 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Member States shall ensure that the tax, social security, competition and audit authorities are sufficient means under national law be able to flag any worrying developments as soon as possible;***

Or. fr

## Amendment 162

Maria Arena

### Proposal for a directive

#### Article 4 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that, where there is likelihood of insolvency, debtors in financial difficulty have access to an effective preventive restructuring framework that enables them to restructure their debts or business, restore their viability and avoid insolvency.

*Amendment*

1. Member States shall ensure that, where there is likelihood of insolvency, debtors in financial difficulty have access to an effective preventive restructuring framework that enables them to restructure their debts or business, restore their viability ***or arrange for sustainable management by another undertaking and avoid insolvency or find a solution that is more satisfactory than liquidation of assets to help pay off creditors claims, protect jobs and sustain business activity.***

Or. fr

## Amendment 163

Paloma López Bermejo

### Proposal for a directive

#### Article 4 – paragraph 2

*Text proposed by the Commission*

2. Preventive restructuring frameworks may consist of one or more procedures or measures.

*Amendment*

2. Preventive restructuring frameworks may consist of one or more procedures or measures, ***duly negotiated and consulted with workers' representatives, who shall retain all rights of collective bargaining and industrial action. It shall also provide for procedures or measures destined to the recovery of the indebted firm by workers, according to the relevant national law.***

Or. en

**Amendment 164**  
**Paloma López Bermejo**

**Proposal for a directive**  
**Article 4 – paragraph 3**

*Text proposed by the Commission*

3. Member States **shall** put in place provisions limiting the involvement of a judicial or administrative authority to where it is necessary and proportionate **so** that rights of any affected parties are safeguarded.

*Amendment*

3. Member States **may** put in place provisions limiting the involvement of a judicial or administrative authority to where it is necessary and proportionate, **while ensuring** that rights of any affected parties are safeguarded.

Or. en

**Amendment 165**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Article 4 – paragraph 4**

*Text proposed by the Commission*

4. Preventive restructuring frameworks shall be available on the application by debtors, or by creditors with the agreement of debtors.

*Amendment*

4. Preventive restructuring frameworks shall be available on the application by debtors, or by creditors with the agreement of debtors or **at the request of management with the agreement of the entrepreneurs**.

Or. fr

**Amendment 166**  
**Paloma López Bermejo**

**Proposal for a directive**  
**Article 4 – paragraph 4**

*Text proposed by the Commission*

4. Preventive restructuring frameworks shall be available on the application by debtors, or by creditors with

*Amendment*

4. Preventive restructuring frameworks shall be available on the application by debtors, **by workers** or by

the agreement of debtors.

*other* creditors with the agreement of debtors.

Or. en

#### **Amendment 167**

**Edouard Martin, Jutta Steinruck, Agnes Jongerius, Javi López, Elena Gentile, Sergio Gutiérrez Prieto**

#### **Proposal for a directive**

#### **Article 4 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

***4a. Member States shall introduce specific provisions placing workers in a position, prior to restructuring, to consider the possibility of a cooperative buyout, a process that would include entering into negotiations with creditors, administrators, experts, financial institutions, trade unions and the authorities concerned, so as to create every opportunity for a viable and sustainable takeover that would not simply be considered as a last resort. Member States shall ensure that the necessary legal provisions are in place for worker buyouts and the creation of cooperatives in this and other instances. Public financing should be secured, through the cohesion funds for example, to assist projects ahead of restructuring, as well as mechanisms for the direct funding of cooperative worker buyouts.***

Or. fr

#### **Amendment 168**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

#### **Article 4 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a.** *The businesses shall be required to inform and consult their employees before and during negotiations.*

*Utmost attention should be paid to worker interests, especially during the various stages of early restructuring and, where insolvency proceedings are under way, to make explicit reference to Article 5(2) of Directive 2001/23/EC, with a view to protecting the rights of employees in this instance.*

Or. fr

#### **Amendment 169**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

**Article 4 – paragraph 4 b (new)**

*Text proposed by the Commission*

*Amendment*

**4b.** *Member States shall take the necessary measures to ensure that dishonest entrepreneurs guilty of deliberate insolvency are not able to benefit from the provisions of this Directive and keep a blacklist of dishonest entrepreneurs not entitled to do so. The Member States shall determine the justification for, and duration of, inclusion on the list.*

Or. fr

#### **Amendment 170**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

**Article 4 – paragraph 4 c (new)**

*Text proposed by the Commission*

*Amendment*

**4c.** *The Member States shall lay down presumption of honesty criteria in respect of entrepreneurs requesting it.*

Or. fr

#### **Amendment 171**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 4 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 4a**

*Entrepreneurs seeking preventive restructuring framework arrangements must make immediately available to their interlocutors (workers, trade unions and creditors generally, as well as designated crisis settlement bodies) all their accounts (financial statements and annexes, banking and insurance documents, stock records, etc.) and agree to any form of verification of their activities.*

Or. fr

#### **Amendment 172**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**

**Article 5 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that debtors accessing preventive restructuring procedures remain totally or at least partially in control of their assets and the day-to-day operation of the business.

1. Member States shall ensure that debtors accessing preventive restructuring procedures remain totally or at least partially in control of their assets and the day-to-day operation of the business **or, where applicable, non-business**

*consumers may keep all or, at least, part of their income or assets in order that they and their immediate families may maintain decent living conditions.*

Or. es

**Amendment 173**  
**Enrique Calvet Chambon**

**Proposal for a directive**  
**Article 5 – paragraph 3 – introductory part**

*Text proposed by the Commission*

3. Member States *may require* the appointment of practitioner in the field of restructuring in the following cases:

*Amendment*

3. Member States *shall ensure* the appointment of a practitioner *at least* in the field of restructuring in the following cases:

Or. fr

**Amendment 174**  
**Maria Arena, Edouard Martin**

**Proposal for a directive**  
**Article 5 – paragraph 3 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

*(ba) where the plan provides for the transfer of all or part of an undertaking to another undertaking without keeping on the entire workforce.*

Or. fr

**Amendment 175**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Article 5 – paragraph 3 – point b a (new)**



*Text proposed by the Commission*

*Amendment*

***(ba) where the restructuring plan cuts more than 30 % of the workforce, or more than 20 % where the business has 50 employees;***

Or. fr

**Amendment 176**

**Paloma López Bermejo**

**Proposal for a directive**

**Article 5 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Member States shall ensure that a creditors' committee is established. The committee shall include representatives of the main creditors and other stakeholders, including workers. The members of the creditors' committee shall support and monitor the insolvency administrator's execution of his office. They shall demand information on the progress of business affairs, have the books and business documents inspected and the monetary transactions and the available cash verified.***

Or. en

**Amendment 177**

**Heinz K. Becker**

**Proposal for a directive**

**Article 6**

*Text proposed by the Commission*

*Amendment*

***[...]***

***deleted***

Or. de

## Amendment 178

Dominique Martin, Mara Bizzotto, Joëlle Mélin

### Proposal for a directive

#### Article 6 – paragraph 1

##### *Text proposed by the Commission*

1. Member States shall ensure that debtors who are negotiating a restructuring plan with their creditors may benefit from a stay of individual enforcement actions if and to the extent such a stay is necessary to support the negotiations of a restructuring plan.

##### *Amendment*

1. Member States shall ensure that ***honest*** debtors who are negotiating a restructuring plan with their creditors may benefit from a stay of individual enforcement actions if and to the extent such a stay is necessary to support the negotiations of a restructuring plan.

Or. fr

## Amendment 179

Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz

### Proposal for a directive

#### Article 6 – paragraph 1

##### *Text proposed by the Commission*

1. Member States shall ensure that debtors who are negotiating a restructuring plan with their creditors may benefit from a stay of individual enforcement actions if and to the extent such a stay is necessary to support the negotiations of a restructuring plan.

##### *Amendment*

1. Member States shall ensure that debtors who are negotiating a restructuring plan with their creditors may benefit from a stay of individual enforcement actions, ***such as eviction***, if and to the extent such a stay is necessary to support ***or make sustainable*** the negotiations of a restructuring plan.

Or. es

## Amendment 180

Maria Arena, Edouard Martin

### Proposal for a directive

#### Article 6 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that debtors who are negotiating a restructuring plan with their creditors may benefit from a stay of individual enforcement actions if and to the extent such a stay is necessary to support the negotiations of a restructuring plan.

*Amendment*

1. Member States shall ensure that debtors who are negotiating a restructuring *or business wind-up* plan with their creditors may benefit from a stay of individual enforcement actions if and to the extent such a stay is necessary to support the negotiations of a restructuring plan.

Or. fr

**Amendment 181**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**

**Article 6 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that a stay of individual enforcement actions may be ordered in respect of all types of creditors, including secured and preferential creditors. The stay may be general, covering all creditors, or limited, covering one or more individual creditors, in accordance with national law.

*Amendment*

2. Member States shall ensure that a stay of individual enforcement actions may be ordered in respect of all types of creditors, including secured and preferential creditors, *particularly in the case of individual non-business debtors facing eviction from their habitual home or being deprived of utilities essential for maintaining a decent life, such as water, electricity and heating*. The stay may be general, covering all creditors, or limited, covering one or more individual creditors, in accordance with national law.

Or. es

**Amendment 182**

**Karima Delli**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 6 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that a stay of individual enforcement actions may be ordered in respect of all types of creditors, including secured and preferential creditors. The stay may be general, covering all creditors, or limited, covering one or more individual creditors, in accordance with national law.

*Amendment*

2. Member States shall ensure that a stay of individual enforcement actions may be ordered in respect of all types of creditors, including secured and preferential creditors ***but not including workers***. The stay may be general, covering all creditors, or limited, covering one or more individual creditors, in accordance with national law.

Or. en

*Justification*

*While the safeguard of Art: 6.3 is a good one, it needs to be stated in the general text of 6.1 that the workers class has a special status*

**Amendment 183**

**Edouard Martin, Jutta Steinruck, Agnes Jongerius, Javi López, Elena Gentile, Sergio Gutiérrez Prieto**

**Proposal for a directive  
Article 6 – paragraph 3**

*Text proposed by the Commission*

3. Paragraph 2 shall not apply to workers' outstanding claims ***except if and to the extent that Member States ensure by other means that the payment of such claims is guaranteed at a level of protection at least equivalent to that provided for under the relevant national law transposing Directive 2008/94/EC.***

*Amendment*

3. Paragraph 2 shall not apply to workers' outstanding claims.

Or. fr

**Amendment 184**

**Paloma López Bermejo**

**Proposal for a directive**  
**Article 6 – paragraph 3**

*Text proposed by the Commission*

3. Paragraph 2 shall not apply to workers' outstanding claims *except if and to the extent that Member States ensure by other means that the payment of such claims is guaranteed at a level of protection at least equivalent to that provided for under the relevant national law transposing Directive 2008/94/EC.*

*Amendment*

3. Paragraph 2 shall not apply to workers' outstanding claims.

Or. en

**Amendment 185**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**  
**Article 6 – paragraph 4**

*Text proposed by the Commission*

4. Member States shall limit the duration of the stay of individual enforcement actions to a maximum period of no more than four months.

*Amendment*

4. Member States shall limit the duration of the stay of individual enforcement actions to a maximum period of no more than four months; *this deadline may be extended on a seasonal, temporary or indefinite basis in the case of non-business debtors in circumstances jeopardising decent living conditions for them or their immediate family, such as lack of a fixed abode or loss of access to essential utilities such as water, gas or electricity.*

Or. es

**Amendment 186**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**  
**Article 6 – paragraph 5 – introductory part**

*Text proposed by the Commission*

5. Member States may *nevertheless* enable judicial or administrative authorities to extend the initial duration of the stay of individual enforcement actions or to grant a new stay of individual enforcement actions, upon request of the debtor or of creditors. Such extension or new period of stay of individual enforcement actions shall be granted only if there is evidence that:

*Amendment*

5. Member States may, *in any event*, enable judicial or administrative authorities to extend the initial duration of the stay of individual enforcement actions or to grant a new stay of individual enforcement actions, upon request of the debtor or of creditors. Such extension or new period of stay of individual enforcement actions shall be granted only if there is evidence that:

Or. es

**Amendment 187**

**Maria Arena, Edouard Martin**

**Proposal for a directive**

**Article 6 – paragraph 5 – point a**

*Text proposed by the Commission*

(a) relevant progress has been made in the negotiations on the restructuring plan;  
et

*Amendment*

(a) relevant progress has been made in the negotiations on the restructuring plan *or transfer of a going concern to another undertaking under the conditions laid down in this Directive*; et

Or. fr

**Amendment 188**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 6 – paragraph 5 – point b**

*Text proposed by the Commission*

(b) the continuation of the stay of individual enforcement actions does not unfairly prejudice the rights or interests of any affected parties.

*Amendment*

(b) the continuation of the stay of individual enforcement actions does not unfairly prejudice the rights or interests of any affected parties. *In order to avoid the domino effect of bankruptcies, particular attention shall be given to creditors with*

*less than 50 employees.*

Or. fr

**Amendment 189**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**

**Article 6 – paragraph 5 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

*(ba) there are circumstances jeopardising decent living conditions for the individual or their immediate family, such as lack of a fixed abode or loss of access to essential utilities such as water, gas or electricity.*

Or. es

**Amendment 190**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**

**Article 6 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

6. Any further extensions shall be given only if the conditions referred to in points (a) **and** (b) of paragraph 5 are met and the circumstances of the case show a strong likelihood that a restructuring plan will be adopted.

6. Any further extensions shall be given only if the conditions referred to in points (a), (b) **and (ba)** of paragraph 5 are met and the circumstances of the case show a strong likelihood that a restructuring plan will be adopted **or, for non-business consumers, in the event of a serious deterioration in decent living conditions.**

Or. es

**Amendment 191**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**  
**Article 6 – paragraph 7**

*Text proposed by the Commission*

7. The total duration of the stay of individual enforcement actions, including extensions and renewals, shall not exceed twelve months.

*Amendment*

7. The total duration of the stay of individual enforcement actions, including extensions and renewals, shall not exceed twelve months, **for business debtors**.

Or. es

**Amendment 192**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**  
**Article 6 – paragraph 8 – point a**

*Text proposed by the Commission*

(a) if it becomes apparent that a proportion of creditors who under national law could block the adoption of the restructuring plan does not support the continuation of the negotiations; o

*Amendment*

(a) if – **for business debtors only** – it becomes apparent that a proportion of creditors who under national law could block the adoption of the restructuring plan does not support the continuation of the negotiations; o

Or. es

**Amendment 193**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Article 6 – paragraph 9**

*Text proposed by the Commission*

9. Member States shall ensure that, where an individual creditor or a single class of creditors is or would be unfairly prejudiced by a stay of individual enforcement actions, the judicial or administrative authority may decide not grant the stay of individual enforcement actions or may lift a stay of individual

*Amendment*

9. Member States shall ensure that, where an individual creditor or a single class of creditors is or would be unfairly prejudiced, **thereby compromising their activity**, by a stay of individual enforcement actions, the judicial or administrative authority may decide not grant the stay of individual enforcement



enforcement actions already granted in respect of that creditor or class of creditors, at the request of the creditors concerned.

actions or may lift a stay of individual enforcement actions already granted in respect of that creditor or class of creditors, at the request of the creditors concerned.

Or. fr

#### **Amendment 194**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

#### **Proposal for a directive**

#### **Article 6 – paragraph 9**

##### *Text proposed by the Commission*

9. Member States shall ensure that, where an individual creditor or a single class of creditors is or would be unfairly prejudiced by a stay of individual enforcement actions, the judicial or administrative authority may decide not grant the stay of individual enforcement actions or may lift a stay of individual enforcement actions already granted in respect of that creditor or class of creditors, at the request of the creditors concerned.

##### *Amendment*

9. Member States shall ensure that, where an individual creditor or a single class of creditors is or would be unfairly prejudiced by a stay of individual enforcement actions, the judicial or administrative authority may decide not grant the stay of individual enforcement actions or may lift a stay of individual enforcement actions already granted in respect of that creditor or class of creditors, at the request of the creditors concerned, ***provided that – in respect of non-business debtors – such a decision does not jeopardise decent living conditions.***

Or. es

#### **Amendment 195**

**Heinz K. Becker**

#### **Proposal for a directive**

#### **Article 7**

##### *Text proposed by the Commission*

[...]

##### *Amendment*

***deleted***

Or. de

## Amendment 196

Edouard Martin, Jutta Steinruck, Agnes Jongerius, Javi López, Elena Gentile, Sergio Gutiérrez Prieto

### Proposal for a directive

#### Article 7 – paragraph 2

*Text proposed by the Commission*

2. A general stay covering all creditors shall prevent the opening of insolvency procedures at the request of one or more creditors.

*Amendment*

2. A general stay covering all creditors shall prevent the opening of insolvency procedures at the request of one or more creditors, ***with the exception of procedures requested by the workers under Article 6(3).***

Or. fr

## Amendment 197

Paloma López Bermejo

### Proposal for a directive

#### Article 7 – paragraph 2

*Text proposed by the Commission*

2. A general stay covering all creditors shall prevent the opening of insolvency procedures at the request of one or more creditors.

*Amendment*

2. A general stay covering all creditors shall prevent the opening of insolvency procedures at the request of one or more creditors, ***with the exception of workers according to article 6.3.***

Or. en

## Amendment 198

Maria Arena, Edouard Martin

### Proposal for a directive

#### Article 7 – paragraph 3

*Text proposed by the Commission*

3. Member States may derogate from paragraph 1 where the debtor becomes illiquid and therefore unable to pay his

*Amendment*

3. Member States may derogate from paragraph 1 where the debtor becomes illiquid and therefore unable to pay his

debts as they fall due during the stay period. In that case, Member States shall ensure that restructuring procedures are not automatically terminated and that, upon examining the prospects for achieving an agreement on a successful restructuring plan within the period of the stay, a judicial or administrative authority may decide to defer the opening of insolvency procedure and keep in place the benefit of the stay of individual enforcement actions.

debts as they fall due during the stay period. In that case, Member States shall ensure that restructuring procedures are not automatically terminated and that, upon examining the prospects for achieving an agreement on a successful restructuring *or going concern transfer* plan within the period of the stay, a judicial or administrative authority may decide to defer the opening of insolvency procedure and keep in place the benefit of the stay of individual enforcement actions.

Or. fr

### **Amendment 199**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive Article 7 – paragraph 4**

##### *Text proposed by the Commission*

4. Member States shall ensure that, during the stay period, creditors to which the stay applies may not withhold performance or terminate, accelerate or in any other way modify executory contracts to the detriment of the debtor for debts that came into existence prior to the stay. Member States may limit the application of this provision to essential contracts which are necessary for the continuation of the day-to-day operation of the business.

##### *Amendment*

4. Member States shall ensure that, during the stay period, creditors to which the stay applies may not withhold performance or terminate, accelerate or in any other way modify executory contracts to the detriment of the debtor for debts that came into existence prior to the stay. Member States may limit the application of this provision to essential contracts which are necessary for the continuation of the day-to-day operation of the business *or of its suppliers/customers with less than 50 employees, so as to avoid the domino effect of bankruptcies*.

Or. fr

### **Amendment 200**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive Article 8 – paragraph 1 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

**(aa) a statement setting out the presumption of honesty assessment criteria determined by the Member States for the purpose of implementing preventive restructuring and second chance framework provisions.**

Or. fr

## **Amendment 201**

**Maria Arena**

### **Proposal for a directive**

#### **Article 8 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) a valuation of the present value of the debtor or the debtor's business as well as a reasoned statement on the causes and the extent of the financial difficulties of the debtor;

(b) a valuation of the present value of the debtor, ***following problem solving or business divestiture procedures***, or the debtor's business as well as a reasoned statement on the causes and the extent of the financial difficulties of the debtor;

Or. fr

## **Amendment 202**

**Paloma López Bermejo**

### **Proposal for a directive**

#### **Article 8 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) a valuation of the present value of the debtor or the debtor's business as well as a reasoned statement on the causes and the extent of the financial difficulties of the debtor;

(b) a valuation of the present value of the debtor or the debtor's business as well as a reasoned statement on the causes and the extent of the financial difficulties of the debtor, ***including a detailed description of any assets, debts and their location; this shall include a relation of the financial obligations and flows with the business'***

*parent companies and subsidiaries in order to estimate the financial capacity of the debtors' business group when joint responsibility may arise;*

Or. en

### **Amendment 203**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

**Article 8 – paragraph 1 – point f – point iii a (new)**

*Text proposed by the Commission*

*Amendment*

*(iiia) the impact on employment in the businesses concerned, including suppliers and subcontractors. Member States shall ensure that in businesses with more than 150 employees, workers' representatives are allowed to appoint an independent expert, to be financed, according to their preference, by the business or by the State, for the purpose of giving prior consideration to the causes and the implications for the viability of the business, employment, and pay, and that they can make proposals as part of the information and consultation process (Directive 2002/14/EC).*

Or. fr

### **Amendment 204**

**Maria Arena**

#### **Proposal for a directive**

**Article 8 – paragraph 1 – point f – point iii a (new)**

*Text proposed by the Commission*

*Amendment*

*(iiia) the possibilities for selling businesses as going concerns, selling prices, or possible sale terms, the implications of those prices or terms for*

*the dividends that creditors would receive compared with the dividend that a creditor would probably have received had the business in question been liquidated or the priority of creditors determined, and the consequences for workers, employment and activity, or for each stakeholder.*

Or. fr

**Amendment 205**

**Karima Delli**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 8 – paragraph 1 – point f – point iii a (new)**

*Text proposed by the Commission*

*Amendment*

*(iiiia) the impact on all types of pensions of retired and current workers.*

Or. en

**Amendment 206**

**Verónica Lope Fontagné**

**Proposal for a directive**

**Article 8 – paragraph 1 – point f – point iii a (new)**

*Text proposed by the Commission*

*Amendment*

*(iiiia) its impact on the working conditions and remuneration of workers.*

Or. es

**Amendment 207**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 8 – paragraph 1 – point f – point iii b (new)**

*Text proposed by the Commission*

*Amendment*

**(iiib) *past and future commitments linked to bonuses and pensions, and the impact of the plan on those commitments.***

Or. fr

**Amendment 208**

**Verónica Lope Fontagné**

**Proposal for a directive**

**Article 8 – paragraph 1 – point f – point iii b (new)**

*Text proposed by the Commission*

*Amendment*

**(iiib) *its impact on subsidiaries and subcontractors.***

Or. es

**Amendment 209**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 8 – paragraph 1 – point f – point iii c (new)**

*Text proposed by the Commission*

*Amendment*

**(iiic) *a summary of the situation broken down by country, where restructuring operations are on a cross-border scale.***

Or. fr

**Amendment 210**

**Edouard Martin, Jutta Steinruck, Agnes Jongerius, Javi López, Elena Gentile, Sergio Gutiérrez Prieto, Maria Arena**

**Proposal for a directive**

**Article 8 – paragraph 1 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

*(ga) an assessment of the employability and the individual and collective skills of the employees affected by the plan.*

Or. fr

**Amendment 211**

**Paloma López Bermejo**

**Proposal for a directive**

**Article 8 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. Workers' claims or other rights shall not be affected by restructuring plans, which shall take into account that any financial claims by workers shall take full priority.*

Or. en

**Amendment 212**

**Edouard Martin, Jutta Steinruck, Agnes Jongerius, Javi López, Elena Gentile, Sergio Gutiérrez Prieto, Maria Arena**

**Proposal for a directive**

**Article 8 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. The rights and claims of employees shall not be affected by restructuring plans.*

Or. fr

**Amendment 213**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**



**Proposal for a directive**  
**Article 8 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall make a model for restructuring plans available online. That model shall contain at least the information required under national law and shall provide general but practical information on how the model is to be used. The model shall be made available in the *official* language or languages of the Member State. Member States shall endeavour to make the model available in other languages, in particular in languages used in international business. It shall be designed in such a way that it can be adapted to the needs and circumstances of every case.

*Amendment*

2. Member States shall make a model for restructuring plans available online. That model shall contain at least the information required under national law and shall provide general but practical information on how the model is to be used. The model shall be made available in the *co-official* language or languages of the Member State. Member States shall endeavour to make the model available in other languages, in particular in languages used in international business. It shall be designed in such a way that it can be adapted to the needs and circumstances of every case.

Or. es

**Amendment 214**  
**Claudiu Ciprian Tănăsescu**

**Proposal for a directive**  
**Article 8 – paragraph 2**

*Text proposed by the Commission*

(2) Member States shall make a model for restructuring plans available online. That model shall contain at least the information required under national law and shall provide general but practical information on how the model is to be used. The model shall be made available in the official language or languages of the Member State. Member States shall endeavour to make the model available in other languages, in particular in languages used in international business. It shall be designed in such a way that it can be adapted to the needs and circumstances of every case.

*Amendment*

(2) Member States shall make a model for restructuring plans available online. That model shall contain at least the information required under national law and shall provide general but practical information on how the model is to be used. The model shall be made available in the official language or languages of the Member State. Member States shall endeavour to make the model available in other languages, in particular in languages used in international business. It shall be designed in such a way that it can be *partially* adapted to the needs and circumstances of every case.

**Amendment 215**

**Edouard Martin, Jutta Steinruck, Agnes Jongerius, Javi López, Elena Gentile, Sergio Gutiérrez Prieto, Maria Arena**

**Proposal for a directive**

**Article 8 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Member States shall ensure that workers' representatives are able to appoint an expert of their choice, funded by the business, to give prior consideration to the causes and consequences for the viability of the business, employment, and pay, and that they are able to make proposals in the context of the information and consultation process (Directive 2002/14/EC).***

Or. fr

**Amendment 216**

**Maria Arena**

**Proposal for a directive**

**Article 8 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Member States shall ensure that their national legislation effectively guarantees the confidentiality of discussions, conversations, negotiations, or information sessions with persons who have entered into a confidentiality undertaking.***

Or. fr

## Amendment 217

Maria Arena

### Proposal for a directive Article 8 – paragraph 3 b (new)

*Text proposed by the Commission*

*Amendment*

**3b.** *The obligations of employers to inform and consult workers shall not be put into effect until a plan has been finalised.*

Or. fr

## Amendment 218

Maria Arena

### Proposal for a directive Article 9 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that any *affected* creditors have a right to vote on the adoption of a restructuring plan. Member States may also grant such voting rights to affected equity holders, in accordance with Article 12(2).

1. Member States shall ensure that *the procedures provided for in national law are such that* any creditors *affected by a waiver plan* have a right to vote on the adoption of a restructuring plan. Member States may also grant such voting rights to affected equity holders, in accordance with Article 12(2).

Or. fr

## Amendment 219

Paloma López Bermejo

### Proposal for a directive Article 9 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that any affected creditors have a right to vote on the adoption of a restructuring plan.

1. Member States shall ensure that any affected creditors, *including workers*, have a right to vote on the adoption of a

Member States may also grant such voting rights to affected equity holders, in accordance with Article 12(2).

restructuring plan. Member States may also grant such voting rights to affected equity holders, in accordance with Article 12(2).

Or. en

#### **Amendment 220**

**Claudiu Ciprian Tănăsescu**

#### **Proposal for a directive**

#### **Article 9 – paragraph 1**

##### *Text proposed by the Commission*

(1) Member States shall ensure that any affected creditors have a right to vote on the adoption of a restructuring plan. Member States may also grant such voting rights to affected equity holders, in accordance with Article 12(2).

##### *Amendment*

(1) Member States shall ensure that any affected creditors have a right to ***an informed*** vote on the adoption of a restructuring plan. Member States may also grant such voting rights to affected equity holders, in accordance with Article 12(2).

Or. ro

#### **Amendment 221**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

#### **Article 9 – paragraph 1**

##### *Text proposed by the Commission*

1. Member States shall ensure that any affected creditors have a right to vote on the adoption of a restructuring plan. Member States may also grant such voting rights to affected equity holders, in accordance with Article 12(2).

##### *Amendment*

1. Member States shall ensure that any affected creditors have a right to vote on the adoption of a restructuring plan. Member States may also grant such voting rights to affected equity holders, in accordance with Article 12(2). ***Before the vote, creditors shall be informed without undue delay of the causes and the consequences that the plan will entail for each of them.***

Or. fr

**Amendment 222**

**Maria Arena**

**Proposal for a directive**

**Article 9 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*Member States shall ensure that the procedures provided for in national law are such that any creditors affected by a plan to sell a business as a going concern to another business, and which would not be repaid in full, would have the right to raise objections in the jurisdiction called upon to authorise the sale.*

Or. fr

**Amendment 223**

**Maria Arena**

**Proposal for a directive**

**Article 9 – paragraph 1 – subparagraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*Member States shall ensure that a debtor, having embarked on a confidential procedure, may at any time thereafter initiate a further procedure publicly, if it considers the latter to be necessary before the plan has been adopted or the sale has been authorised by the jurisdiction concerned.*

Or. fr

**Amendment 224**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 9 – paragraph 1 a (new)**

**1a. Member States shall ensure that business managers inform and consult their employees before and during negotiations. In particular, at every stage of early restructuring, worker interests should receive the utmost attention, and, for the purposes of insolvency proceedings, explicit reference should be made to Article 5(2) of Directive 2001/23/EC.**

Or. fr

### Amendment 225

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive Article 9 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that affected parties are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. Member States may also provide that *workers* are treated in a separate class of their own.

*Amendment*

2. Member States shall ensure that affected parties are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. Member States **shall provide that salaries are treated in a separate class of their own.** Member States may also provide that **pensions** are treated in a separate class of their own.

Or. fr

**Amendment 226**  
**Claudiu Ciprian Tănăsescu**

**Proposal for a directive**  
**Article 9 – paragraph 2**

*Text proposed by the Commission*

(2) Member States shall ensure that affected parties are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. Member States *may* also *provide* that workers are treated in a separate class of their own.

*Amendment*

(2) Member States shall ensure that affected parties are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. Member States *shall* also *ensure* that workers are treated in a separate class of their own.

Or. ro

**Amendment 227**  
**Paloma López Bermejo**

**Proposal for a directive**  
**Article 9 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that affected parties are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. Member States *may* also provide that workers are treated in a separate class of their own.

*Amendment*

2. Member States shall ensure that affected parties are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. Member States *shall* also provide that workers are treated in a separate class of their own *and*

**Amendment 228**

**Karima Delli**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 9 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that affected parties are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. Member States may also provide that workers are treated in a separate class of their own.

*Amendment*

2. Member States shall ensure that affected parties are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. ***Except in duly justified circumstances***, Member States ***shall provide that workers are treated as a separate preferential class and*** may also provide that ***retired*** workers are treated in a separate class of their own.

**Amendment 229**

**Verónica Lope Fontagné**

**Proposal for a directive**

**Article 9 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that affected parties are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a

*Amendment*

2. Member States shall ensure that affected parties are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a



way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. Member States may also provide that workers are treated in a separate class of their own.

way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. Member States may also provide that ***outstanding wage claims for both active and retired*** workers are treated in a separate class of their own.

Or. es

**Amendment 230**  
**Maria Arena**

**Proposal for a directive**  
**Article 9 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that ***affected*** parties are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. Member States may also provide that workers are treated in a separate class of their own.

*Amendment*

2. Member States shall ensure that parties ***affected by a waiver plan*** are treated in separate classes which reflect the class formation criteria. Classes shall be formed in such a way that each class comprises claims or interests with rights that are sufficiently similar to justify considering the members of the class a homogenous group with commonality of interest. As a minimum, secured and unsecured claims shall be treated in separate classes for the purposes of adopting a restructuring plan. Member States may also provide that workers are treated in a separate class of their own.

Or. fr

**Amendment 231**  
**Edouard Martin, Jutta Steinruck, Agnes Jongerius, Javi López, Elena Gentile, Sergio Gutiérrez Prieto**

**Proposal for a directive**  
**Article 9 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**3a.** *Member States shall ensure that, where the bids received are equal, preferential rights are accorded to the workers in order to place them in the best position to make a takeover bid should their business be closed down.*

Or. fr

**Amendment 232**

**Karima Delli**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 9 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. A restructuring plan shall be deemed to be adopted by affected parties, provided that a majority in the amount of their claims or interests is obtained in each and every class. Member States shall lay down the required majorities for the adoption of a restructuring plan, which shall be in any case not higher than 75% in the amount of claims or interests in each class.

4. A restructuring plan shall be deemed to be adopted by affected parties, provided that a majority in the amount of their claims or interests is obtained in each and every class ***and that the class of workers obtains the majority***. Member States shall lay down the required majorities for the adoption of a restructuring plan, which shall be in any case not higher than 75% in the amount of claims or interests in each class.

Or. en

**Amendment 233**

**Heinz K. Becker**

**Proposal for a directive**  
**Article 9 – paragraph 4**

*Text proposed by the Commission*

(4) A restructuring plan shall be deemed to be adopted by affected parties, provided that a majority in the amount of their claims or interests is obtained in each and every class. Member States shall lay down the required majorities for the adoption of a restructuring plan, which shall be in any case not higher than 75% in the amount of claims or interests in each class.

*Amendment*

(4) A restructuring plan shall be deemed to be adopted by affected parties, provided that a majority in the amount of their claims or interests ***and in terms of the number of members with voting rights*** is obtained in each and every class. Member States shall lay down the required majorities for the adoption of a restructuring plan, which shall be in any case not higher than 75% in the amount of claims or interests in each class.

Or. de

**Amendment 234**

**Maria Arena**

**Proposal for a directive**

**Article 9 – paragraph 4**

*Text proposed by the Commission*

4. A restructuring plan shall be deemed to be adopted by affected parties, provided that a majority in the amount of their claims or interests is obtained in each and every class. Member States shall lay down the required majorities for the adoption of a restructuring plan, which shall be in any case not higher than 75% in the amount of claims or interests in each class.

*Amendment*

4. A restructuring plan shall be deemed to be adopted by affected parties, provided that a majority in the amount of their claims or interests is obtained in each and every class. Member States shall lay down the required majorities for the adoption of a restructuring plan, which shall be in any case not higher than 75% in the amount of claims or interests in each class. ***A sale plan shall be authorised by the competent jurisdiction under the national procedure allowing the sale to be authorised and effected.***

Or. fr

**Amendment 235**

**Claudiu Ciprian Tănăsescu**

**Proposal for a directive**  
**Article 9 – paragraph 5**

*Text proposed by the Commission*

(5) Member States may stipulate that a vote on the adoption of a restructuring plan takes the form of a consultation and agreement of a requisite majority of affected parties in each class.

*Amendment*

(5) Member States may stipulate that a vote on the adoption of a restructuring plan takes the form of a consultation and agreement of a requisite majority of affected parties in each class, ***in accordance with national laws.***

Or. ro

**Amendment 236**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Article 9 – paragraph 5**

*Text proposed by the Commission*

5. Member States may stipulate that a vote on the adoption of a restructuring plan takes the form of a consultation and agreement of a requisite majority of affected parties in each class.

*Amendment*

5. Member States may stipulate that a vote on the adoption of a restructuring plan takes the form of a consultation and agreement of a requisite majority of affected parties in each class. ***In the workers' class this vote shall be held in compliance with national laws.***

Or. fr

**Amendment 237**  
**Karima Delli**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 9 – paragraph 6**

*Text proposed by the Commission*

6. Where the necessary majority is not reached in one or more dissenting voting classes, the plan may still be confirmed if it complies with the cross-class cram-down requirements set out in Article 11.

*Amendment*

6. ***With the exemption of the class of workers,*** where the necessary majority is not reached in one or more dissenting voting classes, the plan may still be confirmed if it complies with the cross-

class cram-down requirements set out in Article 11.

Or. en

**Amendment 238**  
**Paloma López Bermejo**

**Proposal for a directive**  
**Article 9 – paragraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**6a.** *Member States shall guarantee that in the case of lack of collaboration of other creditors, the worker’s restructuring plan may be presented to the competent administration or court and adopted without the consent of non-cooperative creditors.*

Or. en

**Amendment 239**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Article 10 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) restructuring plans which affect the interests of *dissenting affected parties*;

(a) restructuring plans which *adversely* affect the interests of *workers and supplier creditors whose activities are directly threatened by a restructuring plan*;

Or. fr

**Amendment 240**  
**Maria Arena**

**Proposal for a directive**  
**Article 10 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Member States shall ensure that plans to sell a business as a going concern cannot become binding on the parties unless they are confirmed by a judicial or administrative authority under national law.***

Or. fr

**Amendment 241**

**Maria Arena**

**Proposal for a directive**

**Article 10 – paragraph 1 – subparagraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***In each of the cases referred to in this paragraph, Member States shall ensure that the procedures provided for in national law are such that workers have the right to submit comments to, or raise objections before, the judicial or administrative authority called upon to rule on the confirmation of the plan.***

Or. fr

**Amendment 242**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 10 – paragraph 2 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) the procedure and time-frames for informing and notifying interested parties are clearly stated;***

Or. fr

**Amendment 243**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 10 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) the restructuring plan complies with the best interest of creditors test;

*Amendment*

(b) the restructuring plan complies with the best interest of creditors **and employment** test;

Or. fr

**Amendment 244**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 10 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) any new financing is necessary to implement the restructuring plan and does not unfairly prejudice the interests of creditors.

*Amendment*

(c) any new financing is necessary to implement the restructuring plan and does not unfairly prejudice the interests of creditors **or employment**.

Or. fr

**Amendment 245**

**Edouard Martin, Jutta Steinruck, Agnes Jongerius, Javi López, Elena Gentile, Sergio Gutiérrez Prieto**

**Proposal for a directive**

**Article 10 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

**(ca) any restructuring plan which is the subject of counter-proposals from the workers' class, in particular to further those which include a change of shareholder supported by the workers'**

*class, or any restructuring plan making workers the future buyers.*

Or. fr

**Amendment 246**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 10 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) any alternative plan submitted by the workers within a reasonable time that would enable jobs to be preserved to the greatest possible extent in Europe. Alternative plans of this kind may include a permanent or temporary change in the share ownership in the form of a public or private holding.*

Or. fr

**Amendment 247**

**Paloma López Bermejo**

**Proposal for a directive**

**Article 10 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

*(ca) workers' representatives have been informed and consulted.*

Or. en

**Amendment 248**

**Karima Delli**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 10 – paragraph 2 – point c a (new)**



*Text proposed by the Commission*

*Amendment*

**(ca) it has been approved by the class of workers.**

Or. en

**Amendment 249**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 10 – paragraph 2 – point c b (new)**

*Text proposed by the Commission*

*Amendment*

**(cb) the competent authority must consider any alternative plan proposed by a representative group of employees before confirming any restructuring plan entailing job losses of more than 30% or more than 20% if the business concerned has more than 50 employees.**

Or. fr

**Amendment 250**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 10 – paragraph 2 – point c c (new)**

*Text proposed by the Commission*

*Amendment*

**(cc) the competent authority must consider any plan involving the temporary acquisition of an owning interest by a public authority with a view to offering an alternative to any restructuring plan entailing the loss of a significant number of jobs in the Member State concerned.**

Or. fr

## Amendment 251

Maria Arena

### Proposal for a directive Article 10 – paragraph 3

*Text proposed by the Commission*

3. Member States shall ensure that judicial or administrative authorities may refuse to confirm a restructuring plan where that plan does not have a reasonable prospect of preventing the insolvency of the debtor and ensuring the viability of the business.

*Amendment*

3. Member States shall ensure that judicial or administrative authorities may refuse to confirm a restructuring plan ***involving the waiver of claims*** where that plan does not have a reasonable prospect of preventing the insolvency of the debtor and ensuring the viability of the business ***or where the debtor's obligations to workers under existing Directives have not been fulfilled. Member States shall ensure that judicial or administrative authorities may refuse to authorise a sale plan where that plan is such that creditors have no reasonable prospect of being paid a dividend at least equivalent to the amount which they would have received if assets had been sold following a bankruptcy procedure or where the business continuing as a going concern does not offer guarantees as to the viability of the operations transferred.***

Or. fr

## Amendment 252

Dominique Martin, Mara Bizzotto, Joëlle Mélin

### Proposal for a directive Article 10 – paragraph 4

*Text proposed by the Commission*

4. Member States shall ensure that where a judicial or administrative authority is required to confirm a restructuring plan in order for it to become binding, a decision is taken without undue delay after the request for confirmation has been filed and in any case no later than 30 days after

*Amendment*

4. Member States shall ensure that where a judicial or administrative authority is required to confirm a restructuring plan in order for it to become binding, a decision is taken without undue delay after the ***complete*** request for confirmation has been filed and in any case no later than 30

the request is filed.

days after the request is filed.

Or. fr

### **Amendment 253**

**Maria Arena, Edouard Martin**

#### **Proposal for a directive**

#### **Article 10 – paragraph 4**

##### *Text proposed by the Commission*

4. Member States shall ensure that where a judicial or administrative authority is required to confirm a restructuring plan in order for it to become binding, a decision is taken without undue delay after the request for confirmation has been filed and in any case no later than 30 days after the request is filed.

##### *Amendment*

4. Member States shall ensure that where a judicial or administrative authority is required to confirm a restructuring plan **or authorise a sale plan** in order for it to become binding, a decision is taken without undue delay after the request for confirmation has been filed and in any case no later than 30 days after the request is filed.

Or. fr

### **Amendment 254**

**Heinz K. Becker**

#### **Proposal for a directive**

#### **Article 11**

##### *Text proposed by the Commission*

##### *Artikel 11*

##### *Klassenübergreifender Cram-down*

***(1) Member States shall ensure that a restructuring plan which is not approved by each and every class of affected parties may be confirmed by a judicial or administrative authority upon the proposal of a debtor or of a creditor with the debtor's agreement and become binding upon one or more dissenting classes where the restructuring plan:***

##### *Amendment*

***deleted***

- (a) *fulfils the conditions in Article 10(2);*
- (b) *has been approved by at least one class of affected creditors other than an equity-holder class and any other class which, upon a valuation of the enterprise, would not receive any payment or other consideration if the normal ranking of liquidation priorities were applied;*
- (c) *complies with the absolute priority rule.*
- (2) *Member States may vary the minimum number of affected classes required to approve the plan laid down in point (b) of paragraph (1).*

Or. de

**Amendment 255**

**Karima Delli**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 11 – paragraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

*(ba) has been approved by the class of workers;*

Or. en

**Amendment 256**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 12 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that, where there is a likelihood of insolvency, shareholders and other equity holders with interests in a debtor may not unreasonably

1. Member States shall ensure that, where there is a likelihood of insolvency, shareholders and other equity holders with interests in a debtor may not unreasonably

prevent the adoption or implementation of a restructuring plan which would restore the viability of the business.

prevent the adoption or implementation of a restructuring plan which would restore the viability of the business *or prevent a domino effect.*

Or. fr

#### **Amendment 257**

**Maria Arena, Edouard Martin**

#### **Proposal for a directive**

#### **Article 13 – paragraph 1**

##### *Text proposed by the Commission*

1. A liquidation value shall be determined by the judicial or administrative authority where a restructuring plan is challenged on the grounds of an alleged breach of the best interest of creditors test.

##### *Amendment*

1. A liquidation value shall be determined by the judicial or administrative authority where a restructuring plan *or a sale plan* is challenged on the grounds of an alleged breach of the best interest of creditors test.

Or. fr

#### **Amendment 258**

**Maria Arena**

#### **Proposal for a directive**

#### **Article 13 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

2. An enterprise value shall be determined by the judicial or administrative authority on the basis of the value of the enterprise as a going concern in the following cases:

##### *Amendment*

2. An enterprise value shall be determined by the judicial or administrative authority on the basis of the value of the enterprise as a going concern *and the value of the proceeds from the sale of its assets by the insolvency practitioner in an insolvency procedure* in the following cases:

Or. fr

**Amendment 259**

**Maria Arena**

**Proposal for a directive**

**Article 13 – paragraph 2 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

*(ba) where a plan involves the transfer of all or part of a business.*

Or. fr

**Amendment 260**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 14 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. *Creditors who are not involved in the adoption of a restructuring plan shall not be affected by the plan.*

2. *The Member States shall ensure that a national risk mutualisation fund is established to guarantee employees payment of their salaries.*

Or. fr

**Amendment 261**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 15 – paragraph 4 – point b**

*Text proposed by the Commission*

*Amendment*

(b) confirm the plan and grant monetary compensation to the dissenting creditors, payable by the debtor or by the creditors who voted in favour of the plan.

(b) confirm the plan and grant monetary compensation to the dissenting creditors, payable by the debtor or by the creditors who voted in favour of the plan. *This compensation must take account of the primary need to safeguard jobs and prevent the domino effect of bankruptcies.*

Or. fr

## Amendment 262

Dominique Martin, Mara Bizzotto, Joëlle Mélin

### Proposal for a directive

#### Article 16 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that new financing and interim financing are adequately encouraged and protected. In particular, new and interim financing shall not be declared void, voidable or unenforceable as an act detrimental to the general body of creditors in the context of subsequent insolvency procedures, unless such transactions have been carried out fraudulently or in bad faith.

*Amendment*

1. Member States shall ensure that new financing and interim financing are adequately encouraged and protected. In particular, new and interim financing shall not be declared void, voidable or unenforceable as an act detrimental to the general body of creditors in the context of subsequent insolvency procedures, unless such transactions have been *offset by the extremely high return granted contractually by the entrepreneur or were* carried out fraudulently or in bad faith. *That is the case if the period covered by the financing solution was unreasonably short.*

Or. fr

## Amendment 263

Karima Delli

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 16 – paragraph 2

*Text proposed by the Commission*

2. *Member States may afford grantors of new or interim financing the right to receive payment with priority in the context of subsequent liquidation procedures in relation to other creditors that would otherwise have superior or equal claims to money or assets. In such cases, Member States shall rank new financing and interim financing at least senior to the claims of ordinary unsecured*

*Amendment*

*deleted*

*creditors.*

Or. en

*Justification*

*This provision constitutes a super-privilege for actors providing new and interim financing. It can lead to downgrading of other creditors including workers and can reduce the remaining substance of the concerned enterprise, thereby further endangering workers*

**Amendment 264**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive  
Article 16 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The grantors of new financing and interim financing in a restructuring process shall be exempted from civil, administrative and criminal liability in the context of the subsequent insolvency of the debtor, unless such financing has been granted fraudulently or in bad faith.** **deleted**

Or. fr

*Justification*

*The exemption from liability granted for new financing is too general.*

**Amendment 265**

**Karima Delli**

on behalf of the Verts/ALE Group

**Proposal for a directive  
Article 17 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

**(c) the payment of worker wages *for work already carried out*;**

**(c) the payment of worker wages *and any other payments resulting from***



*contractual obligations with the workers;*

Or. en

#### **Amendment 266**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

#### **Article 17 – paragraph 2 – point e**

*Text proposed by the Commission*

(e) transactions such as new credit, financial contributions or partial asset transfers outside the ordinary course of business made in contemplation of and closely connected with negotiations for a restructuring plan.

*Amendment*

(e) transactions such as new credit, financial contributions or partial asset transfers outside the ordinary course of business made in contemplation of and closely connected with negotiations for a restructuring plan, ***unless such transactions have been offset by the extremely high return granted contractually by the entrepreneur or were carried out fraudulently or in bad faith. That is the case if the period covered by the financing solution was unreasonably short.***

Or. fr

#### **Amendment 267**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

#### **Article 17 – paragraph 4**

*Text proposed by the Commission*

4. Member States shall ensure that any transaction, payment, debt-equity swap, guarantee or security carried out to further the implementation of a restructuring plan confirmed by a judicial or administrative authority or closely connected with such implementation is not declared void, voidable or unenforceable as an act detrimental to the general body of creditors

*Amendment*

4. Member States shall ensure that any transaction, payment, debt-equity swap, guarantee or security carried out to further the implementation of a restructuring plan confirmed by a judicial or administrative authority or closely connected with such implementation is not declared void, voidable or unenforceable as an act detrimental to the general body of creditors

in the context of subsequent insolvency procedures, unless such transactions have been carried out fraudulently or in bad faith, irrespective of whether such transactions were deemed to be in the ordinary course of business.

in the context of subsequent insolvency procedures, unless such transactions have been ***offset by the extremely high return granted contractually by the entrepreneur or were*** carried out fraudulently or in bad faith. ***That is the case if the period covered by the financing solution was unreasonably short,*** irrespective of whether such transactions were deemed to be in the ordinary course of business.

Or. fr

**Amendment 268**  
**Maria Arena**

**Proposal for a directive**  
**Article 18 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) to take immediate steps to minimise the loss for creditors, workers, shareholders and other stakeholders;

*Amendment*

(a) to take immediate steps to minimise the loss for creditors, workers, shareholders and other stakeholders, ***including employment and the interests and rights of workers;***

Or. fr

**Amendment 269**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Article 18 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) to have due regard to the interests of creditors and other stakeholders;

*Amendment*

(b) to have due regard to the interests of creditors and other stakeholders; ***directors should be prohibited from reducing the assets of the business to below the level necessary to meet the commitments they have towards their employees.***

**Amendment 270**

**Maria Arena**

**Proposal for a directive**

**Article 18 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) to fulfil, in the manner most compatible with confidentiality, the obligations arising from the directives granting rights to workers.*

Or. fr

**Amendment 271**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 18 – paragraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) to avoid the payment of irresponsible bonuses to directors.*

Or. fr

**Amendment 272**

**Maria Arena**

**Proposal for a directive**

**Article 18 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. National law shall provide for a diminished liability regime for managers who comply with subparagraph 1 and an aggravated sanction regime for managers who have not done so, either with intent to*

*defraud or with obvious bad faith, or for managers who, despite being alerted by workers or their representatives to a risk of insolvency, did not take the immediate steps referred to above or who misused the restructuring procedures by not minimising the loss for creditors, workers and other stakeholders.*

Or. fr

**Amendment 273**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive  
Title 3**

*Text proposed by the Commission*

SECOND CHANCE FOR  
ENTREPRENEURS

*Amendment*

SECOND CHANCE FOR  
ENTREPRENEURS **AND CONSUMERS**

Or. es

**Amendment 274**

**Heinz K. Becker**

**Proposal for a directive  
Article 19 – paragraph 1**

*Text proposed by the Commission*

(1) Member States shall ensure that over-indebted entrepreneurs may be fully discharged of their debts in accordance with this Directive.

*Amendment*

(1) Member States shall ensure that over-indebted entrepreneurs may be fully discharged of their debts in accordance with this Directive **and that creditors can receive maximised dividends.**

Or. de

**Amendment 275**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**  
**Article 19 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that over-indebted entrepreneurs may be fully discharged of their debts in accordance with this Directive.

*Amendment*

1. Member States shall ensure that over-indebted entrepreneurs **and non-business consumers** may be fully discharged of their debts in accordance with this Directive.

Or. es

**Amendment 276**  
**Paloma López Bermejo**

**Proposal for a directive**  
**Article 19 – paragraph 1**

*Text proposed by the Commission*

1. Member States shall ensure that over-indebted entrepreneurs may be fully discharged of their debts in accordance with this Directive.

*Amendment*

1. Member States shall ensure that over-indebted entrepreneurs may be fully discharged of their debts in accordance with this Directive, **while guaranteeing the payment of all claims by workers.**

Or. en

**Amendment 277**  
**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**  
**Article 19 – paragraph 2**

*Text proposed by the Commission*

2. Member States in which a full discharge of debt is conditional on a partial repayment of debt by the entrepreneur shall ensure that the related repayment obligation is based on the individual situation of the entrepreneur and is notably proportionate to his or her disposable income over the discharge period.

*Amendment*

2. Member States in which a full discharge of debt is conditional on a partial repayment of debt by the entrepreneur **or non-business consumer** shall ensure that the related repayment obligation is based on the individual situation of the entrepreneur **or consumer** and is notably proportionate to his or her disposable

income over the discharge period **and is not likely to deprive them of the financial means and/or access to goods and services needed to ensure a decent living for them and their immediate family.**

Or. es

### **Amendment 278**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

#### **Proposal for a directive**

#### **Article 19 – paragraph 2**

*Text proposed by the Commission*

2. Member States in which a full discharge of debt is conditional on a partial repayment of debt by the entrepreneur shall ensure that the related repayment obligation is based on the individual situation of the entrepreneur and is notably proportionate to his or her disposable income over the discharge period.

*Amendment*

2. Member States in which a full discharge of debt is conditional on a partial repayment of debt by the entrepreneur shall ensure that the related repayment obligation is based on the individual situation of the entrepreneur and is notably proportionate to his or her disposable income over the discharge period. ***The criteria of honest professional behaviour by which the reliability of entrepreneurs is judged must be verified and such behaviour must be attested by appropriate documents issued by the authorities. Such documents shall serve to justify recourse to second chance.***

Or. fr

### **Amendment 279**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

#### **Proposal for a directive**

#### **Article 20 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. The period of time after which over-indebted entrepreneurs may be fully discharged from their debts shall be no

*Amendment*

1. The period of time after which over-indebted entrepreneurs **and non-business consumers** may be fully

longer than three years starting from:

discharged from their debts shall be no longer than three years starting from:

Or. es

**Amendment 280**

**Heinz K. Becker**

**Proposal for a directive**

**Article 20 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) *the date on which the judicial or administrative authority decided on the application to open such a procedure, in the case of a procedure ending with the liquidation of an over-indebted entrepreneur's assets; or* *deleted*

Or. de

**Amendment 281**

**Heinz K. Becker**

**Proposal for a directive**

**Article 20 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) *the date on which implementation of the repayment plan started, in the case of a procedure which includes a repayment plan.* *deleted*

Or. de

**Amendment 282**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**

**Article 20 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that on expiry of the discharge period, over-indebted entrepreneurs are discharged of their debts without the need to re-apply to a judicial or administrative authority.

*Amendment*

2. Member States shall ensure that on expiry of the discharge period, over-indebted entrepreneurs ***and non-business consumers*** are discharged of their debts without the need to re-apply to a judicial or administrative authority.

Or. es

**Amendment 283**

**Javi López, Sergio Gutiérrez Prieto**

**Proposal for a directive**

**Article 21 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 21a***

***Evictions and access to the basic goods and services needed to ensure a decent living***

***Member States shall ensure that, when an over-indebted, non-business consumer begins a debt restructuring or discharge procedure pursuant to this Directive, any proceedings to evict them or deprive them of access to basic goods and services needed to ensure decent living conditions as a result of such over-indebtedness shall cease, with no need for recourse to a court or administrative authority.***

Or. es

**Amendment 284**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

**Proposal for a directive**

**Article 22 – paragraph 1 – introductory part**



*Text proposed by the Commission*

1. By way of derogation from Articles 19, 20 **and 21**, Member States may maintain or introduce provisions restricting access to discharge or laying down longer periods for obtaining a full discharge or longer disqualification periods in certain well-defined circumstances and where such limitations are justified by a general interest, in particular where:

*Amendment*

1. By way of derogation from Articles 19, 20, **21 and 21(a)**, Member States may maintain or introduce provisions restricting access to discharge or laying down longer periods for obtaining a full discharge or longer disqualification periods in certain well-defined circumstances and where such limitations are justified by a general interest, in particular where:

Or. es

**Amendment 285**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 22 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) the over-indebted entrepreneur does not adhere to a repayment plan or to any other legal obligation aimed at safeguarding the interests of creditors;

*Amendment*

(b) the over-indebted entrepreneur does not adhere to a repayment plan or to any other legal obligation aimed at safeguarding the interests of creditors, ***particularly where he misuses the insolvency procedure in order to deprive workers of their rights;***

Or. fr

**Amendment 286**

**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**

**Article 22 – paragraph 4**

*Text proposed by the Commission*

4. By way of derogation from Article 21, Member States **may** provide for longer or indefinite disqualification periods where the over-indebted entrepreneur is a member

*Amendment*

4. By way of derogation from Article 21, Member States **shall** provide for longer or indefinite disqualification periods where the over-indebted entrepreneur is a member

of a profession to which specific ethical rules apply or where disqualifications were ordered by a court in criminal proceedings.

of a profession to which specific ethical rules apply or where disqualifications were ordered by a court in criminal proceedings.

Or. fr

#### **Amendment 287**

**Javi López, Sergio Gutiérrez Prieto, Soledad Cabezón Ruiz**

#### **Proposal for a directive**

#### **Article 23 – paragraph 1**

##### *Text proposed by the Commission*

1. Member States shall ensure that, **where** an over-indebted entrepreneur has professional debts incurred in the course of his or her trade, business, craft or profession as well as personal debts incurred outside those activities, all debts are treated in a single procedure for the purposes of obtaining a discharge.

##### *Amendment*

1. Member States shall ensure that, **both for** an over-indebted entrepreneur has professional debts incurred in the course of his or her trade, business, craft or profession as well as personal debts incurred outside those activities, **and for an over-indebted non-business consumer**, all debts are treated in a single procedure for the purposes of obtaining a discharge.

Or. es

#### **Amendment 288**

**Verónica Lope Fontagné**

#### **Proposal for a directive**

#### **Article 23 – paragraph 2 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

**2a. Member States may extend the scope of this Directive to cover natural persons if they see fit.**

Or. es

#### **Amendment 289**

**Enrique Calvet Chambon**

**Proposal for a directive**  
**Article 25 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall encourage, by any means which they consider appropriate, the development of, and adherence to, ***voluntary codes*** of conduct by practitioners in the field of restructuring, insolvency and second chance, as well as other effective oversight mechanisms concerning the provisions of such services.

*Amendment*

2. Member States shall encourage, by any means which they consider appropriate, the development of, and adherence to ***a code*** of conduct by practitioners in the field of restructuring, insolvency and second chance, as well as other effective oversight mechanisms concerning the provisions of such services, ***such as licensing and registration***.

Or. en

**Amendment 290**  
**Heinz K. Becker**

**Proposal for a directive**  
**Article 26 – paragraph 3**

*Text proposed by the Commission*

(3) Where practitioners in the field of restructuring, insolvency and second chance are appointed by the judicial or administrative authority, Member States shall ensure that the criteria concerning the manner in which the judicial or administrative authority selects such a practitioner are clear and transparent. In selecting a practitioner in the field of restructuring, insolvency and second chance for a particular case, due consideration shall be given to the practitioner's experience and expertise. ***Where appropriate, the debtors and creditors shall be consulted in the selection of the practitioner.***

*Amendment*

(3) Where practitioners in the field of restructuring, insolvency and second chance are appointed by the judicial or administrative authority, Member States shall ensure that the criteria concerning the manner in which the judicial or administrative authority selects such a practitioner are clear and transparent. In selecting a practitioner in the field of restructuring, insolvency and second chance for a particular case, due consideration shall be given to the practitioner's experience and expertise.

Or. de

**Amendment 291**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Article 26 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a.** *When the restructuring procedures have been completed, the entrepreneurs and creditors shall be consulted in order to evaluate the performance of the practitioner in terms of saving jobs both in the undertaking and in the creditors' undertakings.*

Or. fr

**Amendment 292**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Article 27 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall put in place appropriate oversight and regulatory structures to ensure that the work of practitioners in the field of restructuring, insolvency and second chance is appropriately supervised. This oversight and regulation shall also include an appropriate and effective regime for sanctioning practitioners who have failed in their duties.

1. Member States shall put in place appropriate oversight and regulatory structures to ensure that the work of practitioners in the field of restructuring, insolvency and second chance is appropriately supervised. This oversight and regulation shall also include an appropriate and effective regime for ***identifying and*** sanctioning practitioners who have failed in their duties. ***This oversight and regulation shall also include an appropriate and effective regime for identifying and sanctioning vulture funds which have repeatedly taken action to the detriment of employment without genuinely participating in the objectives of the preventive restructuring.***

Or. fr

**Amendment 293**  
**Paloma López Bermejo**

**Proposal for a directive**  
**Article 28 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) notifications to creditors;

*Amendment*

(c) notifications to creditors, ***including workers' representatives;***

Or. en

**Amendment 294**  
**Dominique Martin, Mara Bizzotto, Joëlle Mélin**

**Proposal for a directive**  
**Article 29 – paragraph 1 – subparagraph 1 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

***(ga) the number of jobs at risk at the opening of a procedure and the number of jobs maintained at the end of the procedure. The number of indirect jobs with creditors/suppliers shall also be counted.***

Or. fr

**Amendment 295**  
**Enrique Calvet Chambon**

**Proposal for a directive**  
**Article 29 – paragraph 1 – subparagraph 1 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

***(ga) the number of job losses, transfer of part or whole of the business, part redundancy and impact of restructuring agreements on the employment and the level of public finance;***

Or. en

**Amendment 296**  
**Enrique Calvet Chambon**

**Proposal for a directive**  
**Article 29 – paragraph 1 – subparagraph 1 – point g b (new)**

*Text proposed by the Commission*

*Amendment*

**(gb) an evaluation on the work carried  
by the practitioners and its results;**

Or. en

**Amendment 297**  
**Paloma López Bermejo**

**Proposal for a directive**  
**Article 29 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. The Commission shall establish the communication form referred to in paragraph 3 by way of **implementing** acts. Those **implementing** acts shall be adopted in accordance with the advisory procedure referred to in Article 30(2).

4. The Commission shall establish the communication form referred to in paragraph 3 by way of **delegated** acts.

Or. en

**Amendment 298**  
**Paloma López Bermejo**

**Proposal for a directive**  
**Article 30 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 30 a**

**Obligation to report**

**1. Any debtor involved in a  
restructuring, insolvency or discharge**

*procedure in a Member State that also operates in another Member State shall report to the competent authority, administration or court of both countries the beginning of any of these procedures.*

*2. The debtor is obliged to report the activity, volume and structure of its business in other Member States or third countries, segregated country by country, to the administration of court involved in the restructuring, insolvency or discharge procedure.*

Or. en