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European Parliament

MEPs approve rules on business insolvency

On Thursday, plenary endorsed the provisional agreement from interinstitutional negations on business insolvency and second chance.

327 MEPs voted in favour of the agreement reached with Council (34 voted against and 142 abstained) on a directive that aims to enhance the rescue culture of businesses and to remove barriers to free flow of capital due to restructuring and insolvency procedures in member states.

“We want to promote entrepreneurial spirit by facilitating restructuring of companies in financial distress, which includes start-ups that are not successful the first time around. Often failure is considered a stigma but actually, it is a part of the learning curb. Young people need to be motivated to set up companies and this directive will help them if there are difficulties” added the rapporteur Angelika Niebler (EPP, DE) during the debate.

The insolvency framework covers three main measures:

- **preventative restructuring framework**: that allows companies in financial difficulty to negotiate a restructuring plan with creditors, while maintaining their activity and preserving jobs
- **second chance** for honest insolvent or over-indebted entrepreneurs, through full debt discharge after a maximum period of 3 years, with safeguards against abuse
- **targeted measures** for member states to increase efficiency of insolvency, restructuring and discharge procedures, in particular expedient treatment of procedures

The final text also includes guarantees that workers’ rights, such as collective bargaining and industrial action, right to information and consultation, will not be affected by restructuring procedures.

Requirements on the duties of the company director in insolvency proceedings were also introduced. They include regard to the interest of creditors, other stakeholders and equity holders, taking steps to avoid insolvency and avoiding deliberate or grossly negligent conduct that threatens the viability of the business.

Next steps

The Directive requires a final endorsement by the Council before its publication in the Official Journal.

Background information

Today in Europe, half of businesses survive less than 5 years. It is estimated that in the EU, 200 000 firms go bankrupt each year (or 600 a day), resulting in 1.7 million direct job losses. In several Member States, there is a tendency to steer viable enterprises in financial trouble towards liquidation rather than early restructuring.

The Commission presented its proposal in November 2016 and Parliament adopted its position July 2018. The rules complement the 2015 Insolvency Regulation on resolving conflicts of jurisdiction and laws in cross-border insolvency proceedings, and ensures the recognition of insolvency-related judgements across the EU. It does not harmonise insolvency laws across member states.

Further information

Committee on Legal Affairs
Profile of rapporteur MEP Angelika Niebler (EPP, DE)
EP Briefing
Legislative train
Video of debate (27.03.2019)
Adopted text (28.03.2019)

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