



Plenary sitting

A8-0174/2018

17.5.2018

*****I**

REPORT

on the proposal for a regulation of the European Parliament and of the Council replacing Annex A to Regulation (EU) 2015/848 on insolvency proceedings (COM(2017)0422 – C8-0238/2017 – 2017/0189(COD))

Committee on Legal Affairs

Rapporteur: Tadeusz Zwiefka

Symbols for procedures

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	16
PROCEDURE – COMMITTEE RESPONSIBLE.....	18
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE.....	19

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council replacing Annex A to Regulation (EU) 2015/848 on insolvency proceedings (COM(2017)0422 – C8-0238/2017 – 2017/0189(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0422),
 - having regard to Article 294(2) and Article 81 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0238/2017),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A8-0174/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments;

Amendment 1

Proposal for a regulation Title

Text proposed by the Commission

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
replacing **Annex A** to Regulation (EU)
2015/848 on insolvency proceedings

Amendment

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
replacing **Annexes A and B** to Regulation
(EU) 2015/848 on insolvency proceedings

Amendment 2

Proposal for a regulation Recital 1

Text proposed by the Commission

(1) **Annex A** to Regulation (EU)
2015/848 of the European Parliament and
of the Council² **lists** the designations given
in the national law of the Member States to
the insolvency proceedings to which that
Regulation applies.

Amendment

(1) **Annexes A and B** to Regulation
(EU) 2015/848 of the European Parliament
and of the Council² **list** the designations
given in the national law of the Member
States to the insolvency proceedings **and**
insolvency practitioners to which that
Regulation applies. **Annex A to Regulation
(EU) 2015/848 lists the insolvency
proceedings referred to in point (4) of
Article 2 of the Regulation. Annex B to
the Regulation lists the insolvency
practitioners referred to in point (5) of
Article 2 of the Regulation.**

² 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).

² 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).

Amendment 3

Proposal for a regulation Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) In the course of the discussion of this proposal, the Commission received further notifications from the Republic of Bulgaria, the Republic of Croatia, the Republic of Latvia and the Portuguese Republic relating to recent changes in their domestic laws, introducing new types of insolvency proceedings and/or insolvency practitioners. Furthermore, the Kingdom of Belgium notified the Commission about a change in its domestic insolvency law which would enter into force on 1 May 2018. These new types of insolvency proceedings and/or insolvency practitioners also comply with the requirements set out in Regulation (EU) 2015/848 and made it necessary to amend both Annexes A and B thereof.

Amendment 4

Proposal for a regulation Recital 3

Text proposed by the Commission

Amendment

(3) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, [the United Kingdom **and Ireland have given** notice of **their** wish to take part in the adoption and application of this Regulation]/[**without prejudice to Article 4 of the Protocol, the United Kingdom and Ireland will not participate in the adoption of this Regulation and will not**

(3) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, the United Kingdom **gave** notice **on 15 November 2017** of **its** wish to take part in the adoption and application of this Regulation.

be bound by it or be subject to its application].

Justification

This amendment reflects the position of the United Kingdom with regard to the Commission proposal pursuant to Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice. The United Kingdom participated in the adoption and application of Regulation (EU) 2015/848 on insolvency proceedings.

Amendment 5

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

Text proposed by the Commission

Amendment

(3a) In accordance with Articles 1 and 2 of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of the Protocol, Ireland will not participate in the adoption of this Regulation and will not be bound by it or be subject to its application.

Justification

This amendment reflects the position of Ireland with regard to the Commission proposal pursuant to Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice. Ireland participated in the adoption and application of Regulation (EU) 2015/848 on insolvency proceedings. The possibility for Ireland to accept this new regulation amending Annex A to Regulation (EU) 2015/848 will always be open after its adoption pursuant to Article 4 of the above-mentioned Protocol.

Amendment 6

**Proposal for a regulation
Recital 5**

Text proposed by the Commission

Amendment

(5) Annex A to Regulation (EU)

(5) Annexes A and B to Regulation

2015/848 should therefore be amended accordingly,

(EU) 2015/848 should therefore be amended accordingly,

Amendment 7

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

Annex A to Regulation (EU) 2015/848 is replaced by the text in the **Annex** to this Regulation.

Amendment

Annexes A and B to Regulation (EU) 2015/848 **are** replaced by the text in the **Annexes** to this Regulation.

Amendment 8

Proposal for a regulation

Annex

Regulation (EU) 2015/848

Annex A – BELGIQUE/BELGIË – indent 8

Text proposed by the Commission

– ***De voorlopige ontneming van beheer, bepaald in artikel 8 van de faillissementswet/Le dessaisissement provisoire, visé à l'article 8 de la loi sur les faillites,***

Amendment

deleted

Amendment 9

Proposal for a regulation

Annex

Regulation (EU) 2015/848

Annex A – BELGIQUE/BELGIË – indent 8 a (new)

Text proposed by the Commission

Amendment

– ***De voorlopige ontneming van het beheer als bedoeld in artikel XX.32 van het Wetboek van economisch recht/Le dessaisissement provisoire de la gestion des biens visé à l'article XX.32 du Code de droit économique,***

Amendment 10

Proposal for a regulation

Annex

Regulation (EU) 2015/848

Annex A – БЪЛГАРИЯ – indent 1 a (new)

Text proposed by the Commission

Amendment

– ***Производство по стабилизация на търговец,***

Amendment 11

Proposal for a regulation

Annex

Regulation (EU) 2015/848

Annex A – HRVATSKA – indent 3 a (new)

Text proposed by the Commission

Amendment

– ***Postupak izvanredne uprave u trgovačkim društvima od sistemskog značaja za Republiku Hrvatsku,***

Amendment 12

Proposal for a regulation

Annex A – PORTUGAL – indent 2 a (new)

Regulation (EU) 2015/848

Annex A – PORTUGAL – indent 2 a (new)

Text proposed by the Commission

Amendment

– ***Processo especial para acordo de pagamento,***

Amendment 13

Proposal for a regulation

Annex 1 a (new)

Regulation (EU) 2015/848

Annex B

Present text

Annex B

Insolvency practitioners referred to in point (5) of Article 2

BELGIQUE/BELGIË

- De curator/Le curateur,
- ***De gedelegeerd rechter/Le juge-délégué,***
- De gerechtsmandataris/Le mandataire de justice,
- De schuldbemiddelaar/Le médiateur de dettes,
- De vereffenaar/Le liquidateur,
- De voorlopige bewindvoerder/L'administrateur provisoire,

БЪЛГАРИЯ

- Назначен предварително временен синдик,
- Временен синдик,
- (Постоянен) синдик,
- Служебен синдик

ČESKÁ REPUBLIKA

- Insolvenční správce,
- Předběžný insolvenční správce,
- Oddělený insolvenční správce,
- Zvláštní insolvenční správce,
- Zástupce insolvenčního správce,

DEUTSCHLAND

- Konkursverwalter,
- Vergleichsverwalter,
- Sachwalter (nach der Vergleichsordnung),

Amendment

Annex 1a

"Annex B

Insolvency practitioners referred to in point (5) of Article 2

BELGIQUE/BELGIË

- De curator/Le curateur,
- De gerechtsmandataris/Le mandataire de justice,
- De schuldbemiddelaar/Le médiateur de dettes,
- De vereffenaar/Le liquidateur,
- De voorlopige bewindvoerder/L'administrateur provisoire,

БЪЛГАРИЯ

- Назначен предварително временен синдик,
- Временен синдик,
- (Постоянен) синдик,
- Служебен синдик,
- ***Доверено лице,***

ČESKÁ REPUBLIKA

- Insolvenční správce,
- Předběžný insolvenční správce,
- Oddělený insolvenční správce,
- Zvláštní insolvenční správce,
- Zástupce insolvenčního správce,

DEUTSCHLAND

- Konkursverwalter,
- Vergleichsverwalter,
- Sachwalter (nach der Vergleichsordnung),

- Verwalter,
- Insolvenzverwalter,
- Sachwalter (nach der Insolvenzordnung),
- Treuhänder,
- Vorläufiger Insolvenzverwalter,
- Vorläufiger Sachwalter,

EESTI

- Pankrotihaldur,
- Ajutine pankrotihaldur,
- Usaldusisik,

ÉIRE/IRELAND

- Liquidator,
- Official Assignee,
- Trustee in bankruptcy,
- Provisional Liquidator,
- Examiner,
- Personal Insolvency Practitioner,
- Insolvency Service,

ΕΛΛΑΔΑ

- Ο σύνδικος,
- Ο εισηγητής,
- Η επιτροπή των πιστωτών,
- Ο ειδικός εκκαθαριστής

ESPAÑA

- Administrador concursal,
- Mediador concursal,

FRANCE

- Mandataire judiciaire,
- Liquidateur,
- Administrateur judiciaire,
- Commissaire à l'exécution du plan,

HRVATSKA

- Verwalter,
- Insolvenzverwalter,
- Sachwalter (nach der Insolvenzordnung),
- Treuhänder,
- Vorläufiger Insolvenzverwalter,
- Vorläufiger Sachwalter,

EESTI

- Pankrotihaldur,
- Ajutine pankrotihaldur,
- Usaldusisik,

ÉIRE/IRELAND

- Liquidator,
- Official Assignee,
- Trustee in bankruptcy,
- Provisional Liquidator,
- Examiner,
- Personal Insolvency Practitioner,
- Insolvency Service,

ΕΛΛΑΔΑ

- Ο σύνδικος,
- Ο εισηγητής,
- Η επιτροπή των πιστωτών,
- Ο ειδικός εκκαθαριστής,

ESPAÑA

- Administrador concursal,
- Mediador concursal,

FRANCE

- Mandataire judiciaire,
- Liquidateur,
- Administrateur judiciaire,
- Commissaire à l'exécution du plan,

HRVATSKA

- Stečajni upravitelj,
- Privremeni stečajni upravitelj,
- Stečajni povjerenik,
- Povjerenik,

ITALIA

- Curatore,
- Commissario giudiziale,
- Commissario straordinario,
- Commissario liquidatore,
- Liquidatore giudiziale,
- Professionista nominato dal Tribunale,
- Organismo di composizione della crisi nella procedura di composizione della crisi da sovraindebitamento del consumatore,
- Liquidatore,

ΚΥΠΡΟΣ

- Εκκαθαριστής και Προσωρινός Εκκαθαριστής,
- Επίσημος Παραλήπτης,
- Διαχειριστής αλήπτης της Πτώχευσης

LATVIJA

- Maksātnespējas procesa administrators,

LIETUVA

- Bankroto administratorius,
- Restruktūrizavimo administratorius,

LUXEMBOURG

- Le curateur,
- Le commissaire,
- Le liquidateur,
- Le conseil de gérance de la section

- Stečajni upravitelj,
- Privremeni stečajni upravitelj,
- Stečajni povjerenik,
- Povjerenik,
- ***Izvanredni povjerenik,***

ITALIA

- Curatore,
- Commissario giudiziale,
- Commissario straordinario,
- Commissario liquidatore,
- Liquidatore giudiziale,
- Professionista nominato dal Tribunale,
- Organismo di composizione della crisi nella procedura di composizione della crisi da sovraindebitamento del consumatore,
- Liquidatore,

ΚΥΠΡΟΣ

- Εκκαθαριστής και Προσωρινός Εκκαθαριστής,
- Επίσημος Παραλήπτης,
- Διαχειριστής της Πτώχευσης,

LATVIJA

- Maksātnespējas procesa administrators,
- ***Tiesiskās aizsardzības procesa uzraugošā persona,***

LIETUVA

- Bankroto administratorius,
- Restruktūrizavimo administratorius,

LUXEMBOURG

- Le curateur,
- Le commissaire,
- Le liquidateur,
- Le conseil de gérance de la section

d'assainissement du notariat,

- Le liquidateur dans le cadre du surendettement,

MAGYARORSZÁG

- Vagyongfelügyelő,
- Felszámoló,

MALTA

- Amministratur Provizorju,
- Riċevitur Uffiċjali,
- Stralċjarju,
- Manager Speċjali,
- Kuraturi f'każ ta' proċeduri ta' falliment,
- Kontrollur Speċjali,

NEDERLAND

- De curator in het faillissement,
- De bewindvoerder in de surséance van betaling,
- De bewindvoerder in de schuldsaneringsregeling natuurlijke personen,

ÖSTERREICH

- Masseverwalter,
- Sanierungsverwalter,
- Ausgleichsverwalter,
- Besonderer Verwalter,
- Einstweiliger Verwalter,
- Sachwalter,
- Treuhänder,
- Insolvenzgericht,
- Konkursgericht,

POLSKA

- Syndyk,
- Nadzorca sądowy,
- Zarządca,

d'assainissement du notariat,

- Le liquidateur dans le cadre du surendettement,

MAGYARORSZÁG

- Vagyongfelügyelő,
- Felszámoló,

MALTA

- Amministratur Provizorju,
- Riċevitur Uffiċjali,
- Stralċjarju,
- Manager Speċjali,
- Kuraturi f'każ ta' proċeduri ta' falliment,
- Kontrolur Speċjali,

NEDERLAND

- De curator in het faillissement,
- De bewindvoerder in de surséance van betaling,
- De bewindvoerder in de schuldsaneringsregeling natuurlijke personen,

ÖSTERREICH

- Masseverwalter,
- Sanierungsverwalter,
- Ausgleichsverwalter,
- Besonderer Verwalter,
- Einstweiliger Verwalter,
- Sachwalter,
- Treuhänder,
- Insolvenzgericht,
- Konkursgericht,

POLSKA

- Syndyk,
- Nadzorca sądowy,
- Zarządca,

- Nadzorca układu,
- Tymczasowy nadzorca sądowy,
- Tymczasowy zarządca,
- Zarządca przymusowy,

PORTUGAL

- Administrador da insolvência,
- Administrador judicial provisório,

ROMÂNIA

- Practician în insolvență,
- Administrator concordatar,
- Administrator judiciar,
- Lichidator judiciar,

SLOVENIJA

- Upravitelj,

SLOVENSKO

- Predbežný správca,
- Správca,

SUOMI/FINLAND

- Pesähoitaja/boförvaltare,
- Selvittäjä/utredare,

SVERIGE

- Förvaltare,
- Rekonstruktör,

UNITED KINGDOM

- Liquidator,
- Supervisor of a voluntary arrangement,
- Administrator,
- Official Receiver,
- Trustee,
- Provisional Liquidator,
- Interim Receiver,
- Judicial factor.

- Nadzorca układu,
- Tymczasowy nadzorca sądowy,
- Tymczasowy zarządca,
- Zarządca przymusowy,

PORTUGAL

- Administrador da insolvência,
- Administrador judicial provisório,

ROMÂNIA

- Practician în insolvență,
- Administrator concordatar,
- Administrator judiciar,
- Lichidator judiciar,

SLOVENIJA

- Upravitelj,

SLOVENSKO

- Predbežný správca,
- Správca,

SUOMI/FINLAND

- Pesähoitaja/boförvaltare,
- Selvittäjä/utredare,

SVERIGE

- Förvaltare,
- Rekonstruktör,

UNITED KINGDOM

- Liquidator,
- Supervisor of a voluntary arrangement,
- Administrator,
- Official Receiver,
- Trustee,
- Provisional Liquidator,
- Interim Receiver,
- Judicial factor."

EXPLANATORY STATEMENT

Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) entered into force on 26 June 2015. The Regulation applies from 26 June 2017, with the exception of the part relating to the system for interconnection of national insolvency registers, which will apply from 26 June 2019.

This Regulation includes as Annexes a list of insolvency proceedings and a list of insolvency practitioners relevant to its application. Annex A to Regulation (EU) 2015/848 lists the insolvency proceedings referred to in point (4) of Article 2 of the Regulation. Annex B lists the insolvency practitioners referred to in point (5) of Article 2.

In January 2017, the Republic of Croatia notified the Commission on recent changes of its domestic insolvency law introducing new types of insolvency proceedings, such as pre-insolvency proceedings and a consumer's insolvency proceeding. The Republic of Croatia accordingly requested a modification of the list set out in Annex A to the Regulation.

The Commission examined whether the request from Croatia complied with the requirements of the Regulation and considers that the new insolvency proceedings introduced in Croatian law are consistent with the definition of "insolvency proceedings" under Regulation (EU) 2015/848. Consequently, it submitted a proposal to the European Parliament and to the Council with a view to adjusting the scope of the recast regulation to the actual legal framework of the Croatian insolvency legislation.

In the course of the examination of the proposal by the Council, the Republic of Bulgaria, the Republic of Croatia, the Republic of Latvia and the Portuguese Republic informed of recent changes in their domestic laws introducing new types of insolvency proceedings and/or insolvency practitioners.

Bulgaria requested to include in Annex A its new restructuring proceedings for merchants (Производство по стабилизация на търговеца), and in Annex B a new type of restructuring practitioner (Доверено лице).

Croatia asked to include in Annex A the new pre-insolvency proceedings designed for companies of systemic importance for the Republic of Croatia (postupak izvanredne uprave u trgovačkim društvima od sistemskog značaja za Republiku Hrvatsku) and to include in Annex B a new type of insolvency practitioner intended for these new proceedings (izvanredni povjerenik).

Portugal requested to add to Annex A a newly introduced pre-insolvency proceeding (processo especial para acordo de pagamento) applicable as of 30 June 2017.

Latvia requested to amend Annex B to reflect a change in the name of the practitioners appointed in its "legal protection proceedings" as of 1 July 2017 (tiesiskās aizsardzības procesa uzraugošā persona).

Furthermore, the Kingdom of Belgium also informed about a change in its domestic

insolvency law which will enter into force on 1 May 2018. This change consists of a move to a different statute of one of its national insolvency proceedings already included in Annex A to the Regulation (De voorlopige ontneming van beheer /Le dessaisissement provisoire).

Against this background, your rapporteur has proposed the amendments set out in this draft report.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Replacing Annex A to Regulation (EU) 2015/848 on insolvency proceedings
References	COM(2017)0422 – C8-0238/2017 – 2017/0189(COD)
Date submitted to Parliament	9.8.2017
Committee responsible Date announced in plenary	JURI 11.9.2017
Rapporteurs Date appointed	Tadeusz Zwiefka 9.10.2017
Discussed in committee	27.3.2018
Date adopted	24.4.2018
Result of final vote	+: 21 –: 2 0: 0
Members present for the final vote	Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Mady Delvaux, Enrico Gasbarra, Lidia Joanna Geringer de Oedenberg, Heidi Hautala, Sylvia-Yvonne Kaufmann, Gilles Lebreton, António Marinho e Pinto, Emil Radev, Evelyn Regner, Pavel Svoboda, József Szájer, Axel Voss, Francis Zammit Dimech, Tadeusz Zwiefka
Substitutes present for the final vote	Luis de Grandes Pascual, Angel Dzhambazki, Jytte Guteland, Kosma Złotowski
Date tabled	17.5.2018

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

21	+
ALDE	Jean-Marie Cavada, António Marinho e Pinto
ECR	Angel Dzhambazki, Kosma Złotowski
EFDD	Joëlle Bergeron
GUE/NGL	Kostas Chrysogonos
PPE	Luis de Grandes Pascual, Emil Radev, Pavel Svoboda, József Szájer, Axel Voss, Francis Zammit Dimech, Tadeusz Zwiefka
S&D	Mady Delvaux, Enrico Gasbarra, Lidia Joanna Geringer de Oedenberg, Jytte Guteland, Sylvia-Yvonne Kaufmann, Evelyn Regner
VERTS/ALE	Max Andersson, Heidi Hautala

2	-
ENF	Marie-Christine Boutonnet, Gilles Lebreton

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention