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*****I**

REPORT

on the proposal for a European Parliament and Council directive on amending Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer
(COM(2000) 832 – C5-0017/2001 – 2001/0008(COD))

Committee on Employment and Social Affairs

Rapporteur: Theodorus J.J. Bouwman

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 16 January 2001 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 137(2) of the EC Treaty, the proposal for a European Parliament and Council directive on amending Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (COM(2000) 832 - 2001/0008 (COD)).

At the sitting of 31 January 2001 the President of Parliament announced that she had referred this proposal to the Committee on Employment and Social Affairs as the committee responsible and the Committee on Legal Affairs and the Internal Market for its opinion (C5-0017/2001).

The Committee on Employment and Social Affairs appointed Theodorus J.J. Bouwman rapporteur at its meeting of 15 February 2001.

The committee considered the Commission proposal and draft report at its meetings of 4 September, 11 September and 8–9 October 2001.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Winfried Menrad, acting chairman; Theodorus J.J. Bouwman, rapporteur; Jan Andersson, Regina Bastos, André Brie (for Sylviane H. Ainardi), Alejandro Cercas, Luigi Cocilovo, Den Dover (for James L.C. Provan), Harald Ettl, Jillian Evans, Ilda Figueiredo, Hélène Flautre, Fiorella Ghilardotti, Marie-Hélène Gillig, Anne-Karin Glase, Richard Howitt (for Proinsias De Rossa), Stephen Hughes, Ioannis Koukiadis, Jean Lambert, Elizabeth Lynne, Toine Manders (for Luciana Sbarbati), Thomas Mann, Manuel Medina Ortega (for Elisa Maria Damião), Claude Moraes, Mauro Nobilia, Bartho Pronk, Herman Schmid, Peter William Skinner (for Karin Jöns), Helle Thorning-Schmidt, Ieke van den Burg, Anne E.M. Van Lancker and Barbara Weiler.

The opinion of the Committee on Legal Affairs and the Internal Market is attached.

The report was tabled on 16 October 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

Proposal for a European Parliament and Council directive on amending Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (COM(2000) 832 – C5-0017/2001 – 2001/0008(COD))

The proposal is amended as follows:

Text proposed by the Commission ¹

Amendments by Parliament

Amendment 1

ARTICLE 1, PARAGRAPH 2

Section I, Article 1, paragraph 1 (Directive 80/987/EEC)

1. This Directive shall apply to employees' claims arising from contracts of employment or employment relationships and existing against employers who are in a state of insolvency within the meaning of Article 2(1).

1. This Directive shall apply to employees' claims arising from contracts of employment or employment relationships and existing against employers who are in a state of insolvency within the meaning of Article 2(1). ***Those who were in the service of the employer for less than 18 months before the insolvency occurred, and during those 18 months worked as a rule virtually exclusively for that employer in a relationship other than one of service (for instance as a self-employed or home worker), and who lost their assignments as a result of the insolvency, shall for the purpose of claims under this Directive be treated as employees in a service relationship.***

Justification

The addition aims to ensure that former employees are not deprived of protection under the Directive as a result of the conversion of a service relationship into a different one, in which they have become self-employed but are still dependent on their (former) employer and essentially perform the same activities.

Amendment 2

ARTICLE 1, PARAGRAPH 2

Section I, Article 1, paragraph 3, introduction (Directive 80/987/EEC)

¹ OJ C 154E, 29.5.2001, p. 109–111.

3. Member States may exclude from the scope of this Directive:

3. Member States may ***continue to*** exclude from the scope of this Directive, ***if it is already customary to do so under national law***:

Justification

If exceptions have to be allowed they should apply only where they are allowed already. At the moment domestic staff are excluded only in two Member States, and fishermen paid in the form of a share of the catch in two others. It is not the purpose of this article that new exceptions can be introduced.

Amendment 3

ARTICLE 1, PARAGRAPH 2

Section I, Article 1, paragraph 3, point a (Directive 80/987/EEC)

(a) domestic servants employed by a natural person;

(a) domestic servants employed by a natural person ***for less than 13 hours' work a week***;

Justification

Thirteen hours is the criterion of one-third of full-time working.

Amendment 4

ARTICLE 1, PARAGRAPH 2

Section I, Article 2, paragraph 1, introductory part (Directive 80/987/EEC)

1. For the purposes of this Directive, an employer shall be deemed to be in a state of insolvency where a request has been made for the opening of collective proceedings, as provided for under the laws, regulations and administrative provisions of a Member State, based on insolvency of the employer and involving the partial or total divestment of the employer's assets and the appointment of a liquidator and the authority which is competent pursuant to the said provisions has:

1. For the purposes of this Directive, an employer shall be deemed to be in a state of insolvency where a request has been made for the opening of collective proceedings, as provided for under the laws, regulations and administrative provisions of a Member State, based on insolvency of the employer and involving the partial or total divestment of the employer's assets and the appointment of a liquidator ***or other persons empowered by the public authority*** and the authority which is competent pursuant to the said provisions has:

Justification

The appointment of a liquidator is relevant to a specific procedure, whereas in other cases where collective insolvency proceedings are opened the procedure involves the appointment of a different person. If we only mention the appointment of a liquidator, it will not be possible to include the full range of situations denoted by 'the opening of insolvency proceedings'.

Amendment 5
ARTICLE 1, PARAGRAPH 2
Section I, Article 2, paragraph 1, point b (Directive 80/987/EEC)

(b) or established that the employer's undertaking or business has been definitively closed down and that the available assets are insufficient to warrant the opening of the proceedings.

(b) or established that the employer's undertaking or business has been definitively closed down and that the available assets are insufficient to warrant the opening of the proceedings; ***and, in general, that the available assets are insufficient to meet the debts incurred by the business.***

Justification

Introduces a general clause to safeguard workers' rights, safeguarding the coverage of certain amounts owed.

Amendment 6
ARTICLE 1, PARAGRAPH 2
Section I, Article 2, paragraph 1, point b a (new) (Directive 80/987/EEC)

(ba) The Member States shall provide for insolvency procedures that differ from those mentioned above but also lead to intervention by the guarantee institution, including situations in which the employer has de facto stopped payments, in particular outstanding pay claims, on a permanent basis.

Justification

This amendment aims to include the more probable insolvency situations.

Amendment 7
ARTICLE 1, PARAGRAPH 2
Section I, Article 2, paragraph 2, first part (Directive 80/987/EEC)

2. This Directive is without prejudice to national law as regards the definition of the terms "employee", "employer", "pay", "right conferring immediate entitlement" and "right conferring prospective entitlement".

2. This Directive is without prejudice to national law as regards the definition of the terms "employee", "employer", "pay", "right conferring immediate entitlement" and "right conferring prospective entitlement".

'Employee' means at least a person who has entered into or works under (or in the case of a contract which has been terminated, has worked under) a contract

with an employer, whether the contract is for manual labour, clerical work or any other work, is expressed or implied, oral or in writing, and whether it is a contract of service or apprenticeship or other type of contract, and 'employee' and any reference to employment shall be construed accordingly.

Justification

The definition of an employee is defined by the Member States, but the Irish example from the Sect. 1 (1) Protection of Employees (Employer's Insolvency) Act 1984 could serve as a minimum requirement at European level.

Amendment 8

ARTICLE 1, PARAGRAPH 2

Section I, Article 2, paragraph 2, second part (Directive 80/987/EEC)

However, the Member States may not exclude from the scope of this Directive

- (a) part-time employees within the meaning of Directive 97/81/EC;
- (b) workers with a fixed-term contract within the meaning of Directive 1999/70/EC;
- (c) workers with a temporary employment relationship within the meaning of Article 1(2) of Directive 91/383/EEC.

However, the Member States may not exclude from the scope of this Directive

- (a) part-time employees within the meaning of Directive 97/81/EC;
- (b) workers with a fixed-term contract within the meaning of Directive 1999/70/EC;
- (c) workers with a temporary employment relationship within the meaning of Article 1(2) of Directive 91/383/EEC;
- (d) self-employed workers without staff, who are economically dependant on just one customer or principal;**
- (e) workers with a contract of training (trainees, assistant doctors, etc.);**
- (f) home workers;**
- (g) those assimilated by national legislation with paid workers.**

Justification

- d) The category of so called self-employed workers has increased and cannot be excluded.*
- e) The Irish insolvency law's definition of an 'employee' provides an adequate definition.*
- f) This increasing category cannot be excluded from the scope of the Directive.*

g) *In many Member States, the quasi self-employed or those who are simply economically dependent benefit from the same kind of protection as traditional employees. Instead of expanding the definition of employment, we can thus refer to the solutions used in cases where national laws assimilate certain self-employed workers with employees. This is a continuation of the method traditionally used by the Community so far.*

Amendment 9

ARTICLE 1, PARAGRAPH 2

Section I, Article 2, paragraph 2 a (new) (Directive 80/987/EEC)

2a. The Member States may not apply threshold provisions in the form of requirements for a specified minimum period or extent of the employment agreement in order to qualify for claims under this Directive.

Justification

The addition is needed to prevent Member States making exclusions on the grounds of threshold provisions, to the effect that you cannot claim entitlement under a specified required minimum period of employment agreement. See also judgments of the ECJ on Directive 93/104 (Case C-173/99, 26 June 2001).

Amendment 10

ARTICLE 1, PARAGRAPH 2

Section I, Article 2, paragraph 3 (Directive 80/987/EEC)

3. For the purposes of this Directive, the establishment means any place of operations where the employer carries out a non-transitory economic activity with human means and **goods**.

3. For the purposes of this Directive, the establishment means any place of operations where the employer carries out a non-transitory **organised** economic activity with human means and **tangible or intangible assets and/or where there is a business presence. This shall include the remuneration of employees, and dealings with the administrative authorities, in the country concerned, and social security contributions.**

Justification

The notion of organisation strengthens the concept.

The Court of Justice has also favoured this definition of 'establishment' in cases in which it has been called on to interpret the meaning of the word.

A wider definition is necessary in case there is no visible material.

Amendment 11
ARTICLE 1, PARAGRAPH 2
Section II, Article 3, first paragraph (Directive 80/987/EEC)

Member States shall take the measures necessary to ensure that guarantee institutions guarantee, subject to Article 4, payment of employees' outstanding claims resulting from contracts of employment or employment relationships.

Member States shall take the measures necessary to ensure that guarantee institutions guarantee, subject to Article 4, payment of employees' outstanding claims resulting from contracts of employment or employment relationships ***or severance pay due to workers on termination of the employment relationship.***

Justification

The inclusion of severance pay on termination of work is in harmony with the International Labour Organisation's International Labour Convention No 173, Article 6(d). The reason is that employers frequently make employees redundant, in view of imminent insolvency, without paying any severance pay which, in fact, amounts to accumulated back pay.

Amendment 12
ARTICLE 1, PARAGRAPH 2
Section II, Article 3, second paragraph (Directive 80/987/EEC)

The claims taken over by the guarantee institution shall be the outstanding pay ***claims*** relating to a period prior to and/or, as applicable, after a given date determined by the Member States.

The claims taken over by the guarantee institution shall be the outstanding ***claims for pay and the corresponding social security contributions*** relating to a period prior to and/or, as applicable, after a given date determined by the Member States. ***Outstanding pay claims shall include any elements of remuneration specified by the Member States (in accordance with national law and/or national collective agreements) the basic salary and overtime supplements, shift work, dangerous work, holidays, end-of-year, holiday and Christmas bonuses during the preceding half-year. It shall also include indemnities or compensation owed for terminating the contract of employment***

Justification

There is a need to ensure that 'pay' covers not only remuneration but also the corresponding social security contributions payable by the employer.

Any elements of remuneration specified by the Member States to guarantee any pay claims, e.g. basic wages and bonuses for overtime, shift work, dangerous work, holidays, end of the year etc., over the previous six months.

Workers whose contracts have been terminated also need to be protected.

Amendment 13
ARTICLE 1, PARAGRAPH 2
Section II, Article 4, paragraph 2 (Directive 80/987/EEC)

2. When Member States exercise the option referred to in paragraph 1, they shall specify the length of the period for which outstanding claims are to be met by the guarantee institution. However, this may not be shorter than a period covering the last **three months** for which pay *is* still outstanding.

Member States may place this minimum three-month period within a reference period of at least six months.

2. When Member States exercise the option referred to in paragraph 1, they shall specify the length of the period for which outstanding claims are to be met by the guarantee institution. However, this may not be shorter than a period covering the last **six months** for which pay ***or other claims stemming from the termination of employment are*** still outstanding.

Justification

A longer period provides a better protection of the employees concerned.

The starting-point of the six-month period should be clearly defined. Otherwise, there is a risk that various methods might be used to postpone the beginning of the period, thus circumventing the above right.

Amendment 14
ARTICLE 1, PARAGRAPH 2
Section II, Article 4, paragraph 3 (Directive 80/987/EEC)

3. Member States may set a ceiling on payments to be made by the guarantee institution.

deleted

When Member States exercise this option, they shall inform the Commission of the methods used to set the ceiling."

Justification

This amendment intends to reinforce the protection objective of the Directive.

Amendment 15

Article 5

Member States shall lay down detailed rules for the organisation, financing and operation of the guarantee institutions, complying with the following principles in particular:

(a) the assets of the institutions shall be independent of the employers' operating capital and be inaccessible to proceedings for insolvency;

(b) the employers and the public authorities shall ensure the funding;

(c) the institutions' liabilities shall not depend on whether or not obligations to contribute to financing have been fulfilled.

Justification

There is no reason to delete Article 5 from the existing Directive.

Funding should not be exclusively guaranteed by the public authorities.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a European Parliament and Council directive on amending Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (COM(2000) 832 – C5-0017/2001 – 2001/0008(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council and the amendments to the proposal (COM(2000) 832¹),
 - having regard to Article 251(2) and Article 137(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0017/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Legal Affairs and the Internal Market (A5-0348/2001),
1. Approves the Commission proposal as amended;
 2. Asks to be consulted again should the Commission intend to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 154E, 29.5.2001, p. 109–111.

EXPLANATORY STATEMENT

Introduction

In its document under consideration (COM(2000) 832 final) of 15 January 2001 the Commission underlines, inter alia, that it put forward a proposal for amending Directive 80/987/EEC on the approximation of national laws relating to the protection of employees in the event of the insolvency of their employer in order to take into account changes to insolvency law in the Member States, the need for consistency with other Community directives on labour law adopted in the meantime, the conclusions from the discussions on the difficulties of enforcing Directive 80/987/EEC and the recent case law of the Court of Justice.

The problems connected with Directive 80/987/EEC in terms of substance and structure derive mainly from the fact that guaranteeing employees' claims in the event of insolvency of their employer involves, in addition to the rules governing receivership proceedings, concern a number of important legal areas – some very complex and involving considerable national differences – such as insolvency law, labour law and social security law.

The content of Directive 80/987/EEC

The principal aim of the 1980 directive is to provide employees with a minimum degree of protection under Community law in the event of their employer becoming insolvent.

To this end, it requires Member States to put in place an institution guaranteeing to employees whose employer has become insolvent the payment of their outstanding claims arising from contracts of employment or employment relationships relating to pay for a given period.

The main difficulties detected by the Commission in enforcing Directive 80/987/EEC and the proposal for amending the Directive

The main difficulties arising from enforcing the directive relate, in particular, to:

- the concept of insolvency contained in the directive,
- the complexity of the arrangement introduced to allow a time-limit to be placed on the guarantee, and
- insolvency cases with a cross-border dimension.

In the current proposal for amendments, there is no change to the directive's basic structure, its aim of offering a minimum protection and the guarantee mechanism introduced.

The proposed amendments relate to:

- the directive's title
- a new legal base following the entry into force of the Amsterdam Treaty
- a precise indication of the scope and removal of the Annex
- a new concept of insolvency
- simplification of the articles dealing with the payment of employees' outstanding claims

- the introduction of new provisions specifying the competent guarantee institution in cases with a cross-border dimension and the introduction of administrative collaboration between the Member States in this area.

Comments on the proposed amendments

1. *The concept of insolvency*

The Commission is proposing a new definition of the state of insolvency, which is intended to consolidate at a Community level developments in insolvency law. These developments concern ways of avoiding total liquidation of enterprises, which are encountering difficulties in making payments and allowing them to survive.

Nevertheless, in view of the link made by the Commission between the new directive and the 'transfers Directive' (98/50/EC), which introduces a degree of flexibility for the benefit of firms encountering economic difficulties, it is worth asking whether more should be done as part of the current amendments to guard against the risk of possible abuses.

For example, a firm should not be restructured at the expense of the guarantee institutions.

2. *Conformity with other directives*

The Commission is proposing that the directive's scope should be set out more specifically in order to ensure that Member States do not exclude part-time workers, workers with fixed-term contracts, workers with a temporary agency employment relationship.

Thus the concept of employees is widened, but does not go so far as to include other concepts, such as persons treated in the same way as employees or economically dependent workers.

In the 1980 directive and the current Commission proposal the definition of the term 'employee' is left to national law (although hardly any Member State defines the term 'employee'), and each Member State determines independently who qualifies as an employee. After all, some more fundamental questions can be raised. For instance, isn't it necessary to develop a Community definition on the notion of employee? In addition, how can we protect workers, not being employees and/or real self-employed workers, against insolvency? Alternatively, can we include specific other groups of workers in the scope of this directive, for instance self-employed drivers with mainly one customer? Or some forms of tele- and homework?

The same questions can be raised on other definitions which are left to the competence of the Member States. One of them is the definition of outstanding 'pay claims' of employees. In many cases the payments for workers consist of basic wages and several kinds of additions like holiday and end year payments, regular payments for overtime work, shiftwork, etc. This regular payments in many cases are substantial in comparison with the basic contract wages. The rapporteur proposes to include these regular additional payments in the claims in the case of insolvency.

3. *Time-limit on the guarantee*

Your rapporteur proposes to reconsider the minimum period of three months, which is mentioned in article 4. In many cases a longer period seems to be more appropriate.

4. *Transnational situations*

The Commission proposes to establish a rule to determine the competent guarantee institution in transnational situations for meeting pay claims in the event of firms with establishments in various Member States becoming insolvent, and a mechanism for recognising insolvency proceedings opened in other Member States.

The Commission's proposal can be regarded as satisfactory to the extent to which gives employees greater legal security by consolidating the case law of the Court of Justice, particularly as regards their rights in cases of insolvency with a cross-border dimension. Whoever in general the proposal can be seen as unsatisfactory that a growing number of economically dependant workers are not covered so far by the amendments on the existing Directive.

Against the background of important changes in flexibilisation of the labour market and worker-employer relations, the challenging process of free movement of labour and enlargement and the ongoing international restructuring of industry and service sector, the modernising and improving of employment relationships is an absolute must. From this perspective the proposal can be considered as a first step. But in the draft report the Commissions proposal will be amended as pointed out in these comments.

18 September 2001

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Employment and Social Affairs

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (COM(2000) 832 – C5-0017/2001 – 2001/0008(COD))

Draftsman: Ria G.H.C. Oomen-Ruijten

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Ria G.H.C. Oomen-Ruijten draftsman at its meeting of 6 February 2001.

It considered the draft opinion at its meetings of 28 August 2001 and 18 September 2001.

At the latter meeting it adopted the following amendments unanimously.

The following were present for the vote: Rainer Wieland (acting chairman), Ward Beysen (vice-chairman), Paolo Bartolozzi, Maria Berger, Raina A. Mercedes Echerer, Janelly Fourtou, Marie-Françoise Garaud, Gerhard Hager, Malcolm Harbour, Othmar Karas (for Bert Doorn, pursuant to Rule 153(2)), Ioannis Koukiadis (for Enrico Boselli), Kurt Lechner, Klaus-Heiner Lehne, Toine Manders, Luís Marinho, Véronique Mathieu, Hans-Peter Mayer, Manuel Medina Ortega, Angelika Niebler (for Ana Palacio Vallelersundi), Antonio Tajani, Feleknas Uca, Theresa Villiers (for The Lord Inglewood), Diana Wallis, Joachim Wuermeling and Stefano Zappalà.

SHORT JUSTIFICATION

Introduction

The Commission proposal seeks to amend the directive of 20 October 1980 which incorporated into the labour law of the Member States the principle of the protection of employees in the event of the insolvency of their employer.

With that aim in view, the directive provides for the establishment of an institution guaranteeing employees whose employer has become insolvent the payment of outstanding claims to remuneration.

According to the explanatory memorandum accompanying the proposal, the Commission took the view that there was a need to revise the 1980 directive, given that its wording had given rise to a series of problems concerning interpretation settled by the Court of Justice in a number of judgments. In addition, the revision seeks to take account of developments on the labour market since 1980 and to clarify and broaden the scope of the definition of insolvency.

Remarks concerning the Commission proposal

The objectives announced by the Commission are praiseworthy. However, they have not been achieved in full, since the proposal may have an adverse impact on the protection of employees, primarily because there is no Community definition of fundamental concepts such as 'employee', 'employer' and 'remuneration', so that these concepts may be interpreted differently by the individual Member States. It is clear, however, that the revision of the directive is only very minor in scope.

Your draftsman emphasises the link between this proposal and the directive relating to the safeguarding of employees' rights in the event of transfers of undertakings¹. The latter affords employees protection against dismissal by the transferor; however, no obstacles are placed in the way of dismissals on economic, technical or organisational grounds. In addition, employees' rights are in no way protected in the event of the bankruptcy or insolvency of an undertaking or of a serious economic crisis.

Undertakings may therefore exploit these provisions with a view to circumventing employees' rights as laid down in Community law. The Commission should therefore submit a consolidated proposal with a view to overcoming the lack of coordination between the directives.

This revision of the 1980 directive thus represents an important step towards the elimination of substantial disparities between the laws of the Member States. However, any future revisions must bring about a greater degree of consistency in the concepts employed by the directive.

¹ Council Directive 2001/23/EC of 12 March 2001, OJ L 82, 22 March 2001, p. 16.

AMENDMENTS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Employment and Social Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1

ARTICLE 1, PARAGRAPH 2, SECTION I

Article 2, paragraph 3a (new) (Directive 80/987/EEC)

Member States shall take the measures needed to prevent the unlawful enforcement of contractual arrangements other than the contract of employment which are similar to a regular contract of employment and which are designed to deprive employees who have entered into an alternative contractual arrangement of this kind of the rights deriving from this Directive.

Justification

This amendment is designed to cover situations in which an employee has, on economic, tax or other grounds, entered into an arrangement other than a contract of employment.

Amendment 2

ARTICLE 1, PARAGRAPH 2, SECTION II

Article 3, paragraph 2b (new) (Directive 80/987/EEC)

Member States shall take the measures needed to prevent the unlawful use of insolvency proceedings in such a way as to deprive employees of the rights deriving from this Directive and the Directive 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.

¹ OJ C 154, 29.05.2001, p. 109.

Justification

Offers protection similar to that afforded by Directive 2001/23/EC.

Amendment 3
ARTICLE 1, PARAGRAPH 2, SECTION IIIa
Article 8b (Directive 80/987/EEC)

For the purposes of implementing Article 8a, Member States shall make provision for collaboration between their competent administrative authorities.

For the purposes of implementing Article 8a, Member States shall make provision for collaboration between their competent administrative authorities. ***The competent administrative authorities shall communicate via a trans-European network for the electronic exchange of information between government bodies.***

Justification

The wording should be brought into line with the availability of new technologies and the need for administrative authorities to exchange information.