

**Question for written answer E-002976/2023
to the Commission**

Rule 138

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Subject: Incorrect transposition of Directive 2019/1023 by Spain

Ley 16/2022¹ transposes Directive 2019/1023² into Spanish law. The wording of Article 640(2) of Ley 16/2022 excludes the debtor from participating in the preparation of the restructuring plan and in its approval. It does not require the debtor to consent to the restructuring plan.

Moreover, Ley 16/2022 does not allow the debtor to challenge the approval of the restructuring plan, where appropriate, once it has been prepared and approved by the creditors.

Finally, Ley 16/2022 does not recognise the debtor's right to be part of judicial proceedings to contest the approval that were initiated following the filing of an appeal by parties who are entitled to challenge the plan approval agreement.

1. Does the Commission consider that Ley 16/2022 goes against the EU fundamental freedoms of movement of goods, services, capital and workers?
2. Does the Commission consider that Spain is violating the right to an effective remedy and to a fair trial enshrined in Articles 47 and 48 of the Charter of Fundamental Rights of the EU³?
3. What measures will the Commission take to encourage Spain to resolve the issues posed by the wording of Ley 16/2022?

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¹ <https://eur-lex.europa.eu/legal-content/ES/TXT/PDF/?uri=NIM:202205707>.

² Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency), OJ L 172, 26.6.2019, p. 18, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32019L1023>.

³ https://www.europarl.europa.eu/charter/pdf/text_en.pdf.