

Judicial cooperation in civil matters: undertakings, insolvency proceedings with cross- border implications

1999/0806(CNS) - 29/05/2000 - Final act

PURPOSE : to improve and speed up insolvency proceedings with cross-border implications - an area which is not covered by the 1968 Brussels I Convention. **COMMUNITY MEASURE** : Council Regulation 1346/2000/EC on insolvency proceedings. **CONTENT** : the Council adopted this Regulation further to the German and Finnish initiative submitted to it in accordance with Article 67(1) on 26 May 1999. This Regulation is an important element in the construction of the European judicial area. In 1995 it drew up a draft Convention, however, that draft was never signed by one of the fifteen Member States. The Regulation now adopted keeps the essential features of that draft Convention. The changes that have been made relate to the new institutional framework and to other aspects of the entry into force of the Amsterdam Treaty. The application of the Regulation will also reduce transfers of assets or of judicial proceedings from one Member State to another. The Regulation does not apply to insurance undertakings, credit institutions, investment undertakings holding funds or securities for third parties or to collective investment undertakings, since they are subject to special arrangements and national supervisory authorities have in these cases very wide-ranging powers of intervention. Furthermore, the Regulation establishes that the main insolvency proceedings be opened in the Member States where the debtor has his main interests. These proceedings have universal scope and are aimed at encompassing all the debtor's assets (principle of universality). However, in order to protect the diversity of interests, secondary proceedings can be opened to run in parallel in a Member State where the debtor has an establishment, but their effects will be limited to the assets located in that State. The Regulation therefore establishes certain exceptions to the general principle of the universal scope of insolvency proceedings. With regard to the annexes to the Regulation, which define in detail the scope of its application (list of national insolvency proceedings, the persons and bodies being liquidators and the procedures for winding-up proceedings), it was agreed that the Council may modify these annexes by qualified majority voting. Finally, the Regulation also applies to the United Kingdom and Ireland as they wished to take part in its adoption on the basis of their protocol to the Amsterdam Treaty. In accordance with its protocol, Denmark will not participate. It has, however, indicated that it wishes to apply the same rules as those defined in the Regulation on the basis of an agreement to be concluded between it and the Community. **ENTRY INTO FORCE** : 31/05/2002