Protection of employees: insolvency of employer, transnational situations (amend. Directive 80/987 /EEC)

2001/0006(COD) - 15/01/2001 - Legislative proposal

PURPOSE : to amend 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. CONTENT : twenty years have elapsed since Directive 80/987/EEC was adopted by the Council, and the Commission believes that the time has come to take stock of the discussions and deliberations on the problems in enforcing some of its provisions, and to present the Council with a proposal for amendments to the Directive. The Commission takes the view that the structure of the basic Directive should be retained: its aim of offering protection, the mechanism introduced and the results achieved are beyond dispute. It appears, however, that over the years new conditions on the job market as well as restructuring and reorganisation within firms means that the Directive should be revised in relation to specific points on which it has got out of step. The main developments which have shown up gaps or shortcomings concern changes to insolvency law in the Member States, the dynamism of the internal market, the need for consistency with other Community directives on labour law adopted in the meantime, and the recent case law of the Court of justice. The following amendments are proposed: - precise indication of the scope of in Article 1 and 2, with the current Annex being removed; - new concept of insolvency in Article 2: definition based on that used in the Council Regulation on insolvency procedures; - simplification of Articles 3 and 4; - new Article 8a specifying the component guarantee institution in cases with a cross-border dimension; - new Article 8b providing for administrative collaboration between the Member States with a view to facilitating the implementation of Article 8a. On the whole, this proposal aims to strengthen employees' confidence and belief that adequate provision is being made for their protection as the internal market develops and competition between businesses becomes more intense. It is therefore likely to have beneficial effects on internal-market policy as well as on economic and social cohesion.