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

2001/0006(COD) - 09/10/2001

The committee adopted the report by Theo BOUWMAN (Greens/EFA, NL) amending the proposal under the codecision procedure (1st reading) with the aim of tightening up the provisions of the directive in order to ensure greater protection for employees. It felt that the concept of employees should be widened still further, and wanted to ensure that certain categories were not excluded from the directive, such as: self-employed workers without staff, who are economically dependent on just one customer; workers on a training contract (such as assistant doctors, etc.); home workers; and those (such as the quasi self-employed) who benefit from the same kind of protection under national law as traditional employees. It also wanted to ensure that that former employees, who have become self-employed but who are still dependent on the same employer and perform the same activities, are treated as employees and therefore included in the scope of the directive. Furthermore, although the proposal provided for the definition of an employee to be decided by the Member States, the committee added the Irish definition of employee under Ireland's 1984 Employer's Insolvency Act which it felt could serve as a minimum requirement at European level. Other key points raised in the report included the need to specify that exceptions to the directive could apply only where they were allowed already, to ensure that no new exceptions could be introduced. The committee was also concerned to tighten up a number of other loopholes. It stressed, for example, that the outstanding pay claims to be guaranteed should include severance pay due to workers on termination of work (in line with ILO regulations), the employer's social security contributions and, finally, additional pay claims such as overtime supplements, holiday pay and end-of-year, holiday and Christmas bonuses over the previous 6 months. It also proposed to delete the clause allowing Member States to set a ceiling on the payments to be made by the guarantee institution. Lastly, the committee wanted the minimum guarantee period to be 6 months, rather than 3 months as proposed by the Commission.