Company law: takeover bids, protection of shareholders, workers rights to information, 13th directive

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The Committee has approved almost unopposed (minus one vote) limited harmonization of the rules on takeover bids (codecision - first reading). Following its rapporteur Nicole FONTAINE (EPP, F), the Legal Affairs Committee endorsed the thinking behind the new Council proposal - a framework directive with many provisions that are not binding in nature. There are two arguments in favour of harmonization, however limited, of the rules on takeover bids in the internal market. Firstly the substantial differences in national laws mean that takeover operations cannot be carried out with the necessary degree of legal certainty to guarantee stock market transparency and the protection of minority shareholders. Secondly only harmonization can discourage purely speculative raids launched by the strongest players, often to the detriment of national interests. Under the Commission proposal the Member States would be free to chose between a binding arrangement (compulsory takeover bids) and other systems of their choice which only need to meet one requirement: the protection of minority shareholders in the company in question. The amendments adopted included one clarifying the definition of the 'offerer'. In addition Member States must take measures to protect minority shareholders when the immediate or deferred acquisition of securities results in the holder acquiring control of the company. The 'supervisory authority' referred to in Article 4 must supervise the 'entire bid procedure'. The report also clarifies the legal remedies available to the injured party to obtain redress. The board of the offeree company must act in the interests of the company as a whole. The Legal Affairs Committee stated that this also entailed protecting jobs. Other amendments are designed to strengthen the rights of staff or their representatives. They should be informed within 24 hours of the takeover bid being made public. They should also be informed of the offer document. Mr DE CLERCQ welcomed the substantial consensus on the report in committee. He said company law had been suffering from a lack of harmonization for 20 years and it was important to do something to ease the situation. The proposal for a directive was a practical step, which respected the principle of subsidiarity and was likely to meet with agreement in the Council. The committee had adopted amendments that improved the proposal without challenging its general principles.