## **Basic information**

## 2022/0408(COD)

COD - Ordinary legislative procedure (ex-codecision procedure) Directive

Harmonising certain aspects of insolvency law

# Subject

3.45.01 Company law 3.45.03 Financial management of undertakings, business loans, accounting

## Legislative priorities

Joint Declaration 2022 Joint Declaration 2023-24 Awaiting Parliament's position in 1st reading

## Key players

## European Parliament

| Committee responsible | Rapporteur                              | Appointed  |
|-----------------------|---|------------|
| JURI Legal Affairs    | RADEV Emil (EPP)                        | 14/10/2024 |
|                       | Shadow rapporteur                       |            |
|                       | REPASI René (S&D)                       |            |
|                       | DIEPEVEEN Ton (PfE)                     |            |
|                       | PIPEREA Gheorghe (ECR)                  |            |
|                       | TOOM Jana (Renew)                       |            |
|                       | PETER-HANSEN Kira Marie<br>(Greens/EFA) |            |
|                       | SAEIDI Arash (The Left)                 |            |

| Former committee responsible | Former rapporteur    | Appointed  |
|------------------------------|----------------------|------------|
| JURI Legal Affairs           | ARIMONT Pascal (EPP) | 28/02/2023 |

| Committee for opinion              | Rapporteur for opinion | Appointed  |
|------------------------------------|------------------------|------------|
| ECON Economic and Monetary Affairs | REPASI René (S&D)      | 12/09/2024 |

| Former committee for opinion       | Former rapporteur for opinion | Appointed  |
|------------------------------------|-------------------------------|------------|
| ECON Economic and Monetary Affairs | REPASI René (S&D)             | 01/03/2023 |

|                               | IMCO Internal Market and Consumer Protection |            | committee decided not<br>ve an opinion. |  |
|-------------------------------|--|------------|---|--|
| Council of the European Union |  |            |   |  |
| European                      | Commission DG                                | Commission | oner                                    |  |
| Commission                    | Justice and Consumers                        | REYNDER    | RS Didier                               |  |
| European Economic             | c and Social Committee                       |            |   |  |

| Key events |   |               |         |
|------------|---|---------------|---------|
| Date       | Event   | Reference     | Summary |
| 07/12/2022 | Legislative proposal published  | COM(2022)0702 | Summary |
| 26/01/2023 | Committee referral announced in Parliament, 1st reading   |               |         |
| 13/11/2024 | Committee referral announced in Parliament, 1st reading   |               |         |
| 24/06/2025 | Vote in committee, 1st reading  |               |         |
| 24/06/2025 | Committee decision to open interinstitutional negotiations with report adopted in committee     |               |         |
| 01/07/2025 | Committee report tabled for plenary, 1st reading  | A10-0126/2025 | Summary |
| 07/07/2025 | Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71) |               |         |
| 09/07/2025 | Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71) |               |         |

| Technical information                        |  |
|--|--|
| Procedure reference                          | 2022/0408(COD)   |
| Procedure type                               | COD - Ordinary legislative procedure (ex-codecision procedure) |
| Procedure subtype                            | Legislation  |
| Legislative instrument                       | Directive  |
| Legal basis                                  | Treaty on the Functioning of the EU TFEU 114                   |
| Mandatory consultation of other institutions | European Economic and Social Committee                         |
| Stage reached in procedure                   | Awaiting Parliament's position in 1st reading                  |
| Committee dossier                            | JURI/10/00210  |

| Documentation gateway |  |  |
|-----------------------|--|--|
| European Parliament   |  |  |
|                       |  |  |

| Committee opinionECONPE768.17620/03/2025Committee draft reportPE771.86320/03/2025Amendments tabled in committeePE773.08324/04/2025Committee report tabled for plenary, 1st reading/single readingA10-0126/202501/07/2025 | Document type                  | Committee | Reference     | Date       | Summary |
|--|--------------------------------|-----------|---------------|------------|---------|
| Amendments tabled in committee PE773.083 24/04/2025  Committee report tabled for plenary, 1st reading/single A10-0126/2025 01/07/2025 Summary  | Committee opinion              | ECON      | PE768.176     | 20/03/2025 |         |
| Committee report tabled for plenary, 1st reading/single  A10-0126/2025  O1/07/2025  Summary  | Committee draft report         |           | PE771.863     | 20/03/2025 |         |
| A10-0126/2025   01/07/2025   Summary   | Amendments tabled in committee |           | PE773.083     | 24/04/2025 |         |
|  |                                |           | A10-0126/2025 | 01/07/2025 | Summary |

## **European Commission**

| Document type                      | Reference     | Date       | Summary |
|------------------------------------|---------------|------------|---------|
| Legislative proposal               | COM(2022)0702 | 07/12/2022 | Summary |
| Document attached to the procedure | SEC(2022)0434 | 08/12/2022 |         |
| Document attached to the procedure | SWD(2022)0395 | 08/12/2022 |         |
| Document attached to the procedure | SWD(2022)0396 | 08/12/2022 |         |

## National parliaments

| Document type | Parliament<br>/Chamber | Reference     | Date       | Summary |
|---------------|------------------------|---------------|------------|---------|
| Contribution  | CZ_SENATE              | COM(2022)0702 | 14/03/2023 |         |
| Contribution  | ES_PARLIAMENT          | COM(2022)0702 | 21/03/2023 |         |
| Contribution  | DE_BUNDESRAT           | COM(2022)0702 | 11/04/2023 |         |
| Contribution  | CZ_CHAMBER             | COM(2022)0702 | 18/04/2023 |         |
| Contribution  | PT_PARLIAMENT          | COM(2022)0702 | 15/09/2023 |         |

## Other institutions and bodies

| EDPS Document attached to the procedure N9-0018/2023 OJ C 089 10.03.2023, p. 0010 06/02/2023 |  |
|--|--|
|  |  |
| EESC Economic and Social Committee: opinion, report CES5781/2022 22/03/2023                  |  |

# Meetings with interest representatives published in line with the Rules of Procedure

# Rapporteurs, Shadow Rapporteurs and Committee Chairs

| Transparency |  |  |  |  |  |
|--------------|--|--|--|--|--|
|              |  |  |  |  |  |

| Name                       | Role                   | Committee | Date       | Interest representatives   |
|----------------------------|------------------------|-----------|------------|--|
| DIEPEVEEN Ton              | Shadow rapporteur      | JURI      | 08/10/2025 | European Banking Federation  |
| SAEIDI Arash               | Shadow rapporteur      | JURI      | 08/07/2025 | European Association of Paritarian Institutions of Social Protection         |
| REPASI René                | Shadow rapporteur      | JURI      | 10/04/2025 | Deutsche Sozialversicherung Europavertretung                                 |
| PETER-HANSEN Kira<br>Marie | Shadow rapporteur      | JURI      | 08/04/2025 | Deutscher Gewerkschaftsbund  |
| RADEV Emil                 | Rapporteur             | JURI      | 08/04/2025 | Athenora Consulting CONSEIL NATIONAL DES GREFFIERS DES TRIBUNAUX DE COMMERCE |
| REPASI René                | Shadow rapporteur      | JURI      | 02/04/2025 | International Swaps and Derivatives Association                              |
| MANTOVANI Mario            | Committee chair        | JURI      | 20/03/2025 | Confartigianato Imprese  |
| REPASI René                | Shadow rapporteur      | JURI      | 11/03/2025 | NautaDutilh  |
| REPASI René                | Shadow rapporteur      | JURI      | 07/03/2025 | Dutch Ministry of Justice and Security                                       |
| DIEPEVEEN Ton              | Shadow rapporteur      | JURI      | 18/02/2025 | European Banking Federation  |
| RADEV Emil                 | Rapporteur             | JURI      | 14/01/2025 | European Banking Federation  |
| ARIMONT Pascal             | Rapporteur             | JURI      | 13/03/2024 | European Insolvency Practitioners' organizations                             |
| REPASI René                | Shadow rapporteur      | JURI      | 06/03/2024 | Représentation permanente de la France auprès de l'Union européenne          |
| ARIMONT Pascal             | Rapporteur             | JURI      | 07/02/2024 | Volkswagen Aktiengesellschaft  |
| ARIMONT Pascal             | Rapporteur             | JURI      | 06/02/2024 | Permanent Representation of Finland to the EU                                |
| ARIMONT Pascal             | Rapporteur             | JURI      | 25/01/2024 | Permanent representation of Austria to the EU                                |
| ARIMONT Pascal             | Rapporteur             | JURI      | 17/01/2024 | Neue Insolvenzrechtsvereinigung Deutschlands e.V.                            |
| REPASI René                | Shadow rapporteur      | JURI      | 29/11/2023 | CNJAM  |
| ARIMONT Pascal             | Rapporteur             | JURI      | 22/11/2023 | Bundesnotarkammer  |
| REPASI René                | Shadow rapporteur      | JURI      | 15/11/2023 | Deutsche Notarkammer   |
| FITZGERALD Frances         | Shadow rapporteur      | JURI      | 06/11/2023 | European Banking Federation  |
| ARIMONT Pascal             | Rapporteur             | JURI      | 10/10/2023 | Deutscher Anwaltverein (German Bar Association)                              |
| FITZGERALD Frances         | Shadow rapporteur      | JURI      | 27/09/2023 | European Association of Paritarian Institutions of Social Protection         |
| TOOM Jana                  | Shadow rapporteur      | JURI      | 25/07/2023 | CENTR - Council of European Top Level Domain Registries<br>APA               |
| ARIMONT Pascal             | Rapporteur             | JURI      | 12/07/2023 | Verband der Insolvenzverwalter und Sachverwalter Deutschlands                |
| ARIMONT Pascal             | Rapporteur             | JURI      | 11/07/2023 | Permanent Representation of Germany to the EU                                |
| ARIMONT Pascal             | Rapporteur             | JURI      | 11/07/2023 | Bundesverband der Deutschen Volksbanken und Raiffeisenbanken                 |
| ARIMONT Pascal             | Rapporteur             | JURI      | 07/07/2023 | Business Court of Eupen  |
| REPASI René                | Rapporteur for opinion | ECON      | 30/06/2023 | Deutscher Gewerkschaftsbund  |

| REPASI René    | Shadow rapporteur      | JURI | 30/06/2023 | Kreditschutzverband von 1870   |
|----------------|------------------------|------|------------|--|
| REPASI René    | Shadow rapporteur      | JURI | 19/06/2023 | CENTR - Council of European Top Level Domain Registries  |
| REPASI René    | Rapporteur for opinion | ECON | 08/06/2023 | Leaseurope   |
| REPASI René    | Rapporteur for opinion | ECON | 07/06/2023 | Hanbury Strategy and Communications Limited  |
| REPASI René    | Shadow rapporteur      | JURI | 25/05/2023 | Verband Insolvenzverwalter und Sachwalter Deutschlands<br>Conseil national des administrateurs judiciaires et des mandataires<br>judiciaires |
| ARIMONT Pascal | Rapporteur             | JURI | 03/05/2023 | Deutscher Anwaltverein (German Bar Association)  |
| REPASI René    | Shadow rapporteur      | JURI | 26/04/2023 | Deutsche Sozialversicherung Arbeitsgemeinschaft Europa   |
| ARIMONT Pascal | Rapporteur             | JURI | 13/04/2023 | Bundesnotarkammer  |
| ARIMONT Pascal | Rapporteur             | JURI | 12/04/2023 | Professeur Daniel Fasquelle<br>Conseil National des Administrateurs Judiciaires et des Mandataires<br>Judiciaires                            |

### Other Members

| Transparency     |            |                             |
|------------------|------------|-----------------------------|
| Name             | Date       | Interest representatives    |
| PIPEREA Gheorghe | 06/03/2025 | European Banking Federation |

# Harmonising certain aspects of insolvency law

2022/0408(COD) - 07/12/2022 - Legislative proposal

PURPOSE: to harmonise certain corporate insolvency rules across the EU, making them more efficient and helping promote cross-border investment.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: insolvency laws ensure the orderly winding down of companies in financial and economic distress. They are considered as one of the key factors in determining the cost of financial investments, as they allow to establish the final recovery value of investment in insolvent companies.

Insolvency rules are fragmented along national lines. As a result, they deliver different outcomes across Member States, and in particular they have different degrees of efficiency in terms of the time it takes to liquidate a company and the value that can eventually be recovered. In some Member States, this leads to lengthy insolvency procedures and a low average recovery value in liquidation cases. Differences in national regimes also create legal uncertainty as regards the outcomes of insolvency proceedings and lead to higher information and learning costs for cross-border creditors compared to those who only operate domestically

The lack of harmonised insolvency regimes has long been identified as one of the key obstacles to the freedom of capital movement in the EU and to greater integration of the EU's capital markets

Action at EU level is needed to substantially reduce the fragmentation of insolvency regimes. Measures at EU level would ensure a level playing field and avoid distortions of cross-border investment decisions caused by lack of information about and differences in the designs of insolvency regimes. This would help to facilitate cross-border investments and competition while protecting the orderly functioning of the single market

This initiative is part of the Commission's priority to advance the Capital Markets Union (CMU), a key project to further financial and economic integration in the European Union.

CONTENT: the Commission aims to **reduce differences in national insolvency laws** and hence address the issue of more inefficient insolvency laws in some Member States, increasing the predictability of insolvency proceedings in general and lowering obstacles to the free movement of capital. By harmonising targeted aspects of insolvency laws, the proposal aims, in particular, to maximise the recovery of value from the insolvent company for creditors. More uniform insolvency laws should thus expand the choice of funding available to companies across the Union.

#### Specific provisions of the proposal

This proposal targets the three key dimensions of insolvency law: (i) the recovery of assets from the liquidated insolvency estate; (ii) the efficiency of proceedings; and (iii) the predictable and fair distribution of recovered value among creditors.

It provides for:

- minimum set of harmonised conditions for exercising avoidance actions to protect the insolvency estate from illegitimate withdrawals of assets made prior to the commencement of insolvency proceedings;
- strengthening asset traceability through improved access by insolvency practitioners to asset registers, including in a cross-border setting;
- provisions to introduce so called 'pre-pack' liquidation procedures (i.e. where the sale of the business is agreed before the insolvency begins);
- provisions on a duty of directors to timely file for insolvency to avoid potential asset value losses for creditors;
- simplified liquidation procedure for insolvent microenterprises;
- requirements for improving the representation of creditors' interests in the proceedings through creditors' committees;
- enhanced transparency for creditors on the key features of national insolvency regimes, including on the rules governing insolvency triggers and the ranking of claims.

#### Budgetary implications

This proposal has implications in terms of costs and administrative burden for the Commission. These costs and burden stem from the obligation to create a system interconnecting national electronic auction systems via the European e-Justice Portal. Based on experience with other e-Justice Portal interconnection projects, the implementation costs for the Commission are estimated to be EUR 1.75 million for the current long-term budget (Multiannual Financial Framework). The additional costs will be covered through redeployment within the Justice programme.

# Harmonising certain aspects of insolvency law

2022/0408(COD) - 01/07/2025 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Emil RADEV (EPP, BG) on the proposal for a directive of the European Parliament and of the Council harmonising certain aspects of insolvency law.

The competent committee recommended that the European Parliament adopt its position at first reading by amending the Commission's proposal as follows.

### Minimum standards

The minimum standards provided for in this Directive should aim at approximating the insolvency laws of the Member States, taking into account in particular the following objectives: (i) maximising legal certainty as to the value of companies; (ii) improving the efficiency of insolvency proceedings, both in terms of costs and length; (iii) improving the predictability and fairness of the distribution of value among creditors; and (iv) safeguarding the activities and viability of companies.

### Revocable actions

Transactions that are detrimental to creditors must be more effectively challenged. The amendments clarify the conditions for closing loopholes that previously allowed transactions to escape scrutiny. These amendments thus strengthen creditor protection.

### Asset tracing mechanisms

Insolvency practitioners should be allowed to access information contained in bank account registers indirectly, by requesting the courts or administrative authorities designated in their Member State to be granted access to the bank account registers and to carry out searches.

Access to bank account information should only be granted on a case-by-case basis, where relevant for specific insolvency proceedings for the purpose of identifying and tracing assets belonging to the insolvency estate, as well as assets subject to avoidance actions. However, Member States should be able to adopt or maintain national rules allowing insolvency practitioners to access and consult their bank account registers.

For the purposes of asset tracing, insolvency practitioners should be granted timely access to certain categories of **beneficial ownership** information, such as the name, month and year of birth, country of residence and nationality of the beneficial owner, and the nature and extent of the beneficial interests held.

In order to ensure efficient asset tracing in **cross-border insolvency proceedings**, insolvency practitioners appointed in a Member State should be granted expeditious access to national registers and databases, even if those registers and databases are located in a Member State other than that in which the insolvency practitioner has been appointed. Access should be granted without the intervention of a court or an intermediate authority.

Access to national registers and databases should not be denied solely on the grounds that the applicant is an insolvency practitioner established in another Member State.

### Pre-pack proceedings

In order to promote going-concern sales in liquidation, national insolvency regimes should include a pre-pack proceeding, where the debtor in financial distress, with the help of a "monitor", seeks possible interested acquirers and prepares the sale of the business as a going concern before the formal opening of insolvency proceedings.

To guarantee that the sale process is prepared in a fair way, the monitor should be independent of the debtor, the debtor's shareholders, the creditors and any other party having a legal or economic interest in the debtor or the debtor's business.

Member States may introduce pre-pack proceedings in situations where the debtor is in a situation of likelihood of insolvency or is insolvent in accordance with national law. Member States shall ensure that pre-pack proceedings are composed of the following two consecutive phases: namely a preparation phase and a liquidation phase. Those phases should respect the principles applicable to judicial proceedings in each Member State.

### Deadline for the duty to submit a request for the opening of insolvency proceedings

Member States should set a time limit for the obligation to submit an application for the opening of insolvency proceedings. That time limit should not exceed three months from the date on which the directors became aware of the company's insolvency. If the company regains its solvency before that time limit, Member States should be able to provide that a new time limit starts to run if the company subsequently becomes insolvent again.

#### Microenterprises

Member States should be able to maintain or introduce **simplified winding-up procedures** for micro-enterprises, while respecting the high standards of transparency and fairness provided for in this Directive and other relevant instruments. The procedures should be available even where the debtor has no assets or where the available assets are insufficient to cover the costs of the proceedings or the cost of the intervention of an insolvency practitioner.

Members noted that significant legal uncertainties, risks of abuse and administrative burden transferred to SMEs can be caused/ triggered by the provisions related to simplified winding-up proceedings for microenterprises under Title VI. The framework lacks adequate protections for creditors and other stakeholders, potentially resulting in financial losses and reduced trust in insolvency proceedings.

### Creditors' Committees

This Directive should strengthen the provisions on creditors' committees, ensuring fair representation of all categories of creditors, including cross-border creditors, and increased transparency in the decision-making process. Fair representation of creditors in the creditors' committee is particularly important for workers who are creditors and for whom a delay in the payment of wages could pose an existential threat.