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INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a Regulation of the European Parliament and of the Council replacing Annex A to Regulation (EU) 2015/848 on insolvency proceedings - Outcome of the European Parliament's first reading, (Strasbourg, 11 to 14 June 2018)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Tadeusz ZWIEFKA (EPP, PL) presented a report consisting of 13 amendments (amendments 1-13) to the proposal for a Regulation, on behalf of the Committee on Legal Affairs. These amendments had been agreed during the informal contacts referred to above.

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 13 June 2018, the plenary adopted by single vote 13 amendments (amendments 1-13) to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

Insolvency proceedings: updated annexes to the Regulation *I**

European Parliament legislative resolution of 13 June 2018 on the proposal for a regulation of the European Parliament and of the Council replacing Annex A to Regulation (EU) 2015/848 on insolvency proceedings (COM(2017)0422 – C8-0238/2017 – 2017/0189(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0422),
 - having regard to Article 294(2) and Article 81 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0238/2017),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the undertaking given by the Council representative by letter of 23 May 2018 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A8-0174/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments;

P8_TC1-COD(2017)0189

Position of the European Parliament adopted at first reading on 13 June 2018 with a view to the adoption of Regulation (EU) 2018/... of the European Parliament and of the Council replacing *Annexes A and B* to Regulation (EU) 2015/848 on insolvency proceedings

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure³,

³ Position of the European Parliament of 13 June 2018.

Whereas:

- (1) *Annexes A and B* to Regulation (EU) 2015/848 of the European Parliament and of the Council⁴ *list* the designations given in the national law of the Member States to the insolvency proceedings *and to the insolvency practitioners* to which that Regulation applies. *Annex A lists the insolvency proceedings referred to in point (4) of Article 2 of Regulation (EU) 2015/848 and Annex B lists the insolvency practitioners referred to in point (5) of that Article.*
- (2) On 3 January 2017, the Republic of Croatia notified the Commission of recent changes in its domestic insolvency law that introduce new types of insolvency proceedings. Those new types of insolvency proceedings are consistent with the definition of insolvency proceedings under Regulation (EU) 2015/848.

⁴ Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p. 19).

- (3) *After the Commission presented its proposal, it received further notifications from the Republic of Bulgaria, the Republic of Croatia, the Republic of Latvia and the Portuguese Republic relating to recent changes to their domestic law that introduce new types of insolvency proceedings or insolvency practitioners. Furthermore, the Kingdom of Belgium notified the Commission of the adoption of a new law that introduces changes to its domestic insolvency law. That new law entered into force on 1 May 2018. Those new types of insolvency proceedings and insolvency practitioners comply with the requirements set out in Regulation (EU) 2015/848 and make it necessary to amend Annexes A and B to that Regulation.*
- (4) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, the United Kingdom has notified, *by letter of 15 November 2017*, its wish to take part in the adoption and application of this Regulation ■-.

- (5) *In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.*
- (6) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (7) *Annexes A and B* to Regulation (EU) 2015/848 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Annexes A and B to Regulation (EU) 2015/848 *are* replaced by the text set out in the *Annex* to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX

"ANNEX A

Insolvency proceedings referred to in point (4) of Article 2

BELGIQUE/BELGIË

- Het faillissement/La faillite,
- De gerechtelijke reorganisatie door een collectief akkoord/La réorganisation judiciaire par accord collectif,
- De gerechtelijke reorganisatie door een minnelijk akkoord/La réorganisation judiciaire par accord amiable,
- De gerechtelijke reorganisatie door overdracht onder gerechtelijk gezag/La réorganisation judiciaire par transfert sous autorité de justice,
- De collectieve schuldenregeling/Le règlement collectif de dettes,
- De vrijwillige vereffening/La liquidation volontaire,
- De gerechtelijke vereffening/La liquidation judiciaire,
- De voorlopige ontneming van het beheer, als bedoeld in artikel **XX.32 van het Wetboek van economisch recht**/Le dessaisissement provisoire de la gestion, visé à l'article **XX.32 du Code de droit économique**,

БЪЛГАРИЯ

— Производство по несъстоятелност,

— *Производство по стабилизация на търговеца,*

ČESKÁ REPUBLIKA

— Konkurs,

— Reorganizace,

— Oddlužení,

DEUTSCHLAND

— Das Konkursverfahren,

— Das gerichtliche Vergleichsverfahren,

— Das Gesamtvollstreckungsverfahren,

— Das Insolvenzverfahren,

EESTI

— Pankrotimenetus,

— Võlgade ümberkujundamise menetlus,

ÉIRE/IRELAND

- Compulsory winding-up by the court,
- Bankruptcy,
- The administration in bankruptcy of the estate of persons dying insolvent,
- Winding-up in bankruptcy of partnerships,
- Creditors' voluntary winding-up (with confirmation of a court),
- Arrangements under the control of the court which involve the vesting of all or part of the property of the debtor in the Official Assignee for realisation and distribution,
- Examinership,
- Debt Relief Notice,
- Debt Settlement Arrangement,
- Personal Insolvency Arrangement,

ΕΛΛΑΔΑ

- Η πτώχευση,
- Η ειδική εκκαθάριση εν λειτουργία,
- Σχέδιο αναδιοργάνωσης,
- Απλοποιημένη διαδικασία επί πτωχεύσεων μικρού αντικειμένου,
- Διαδικασία εξυγίανσης,

ESPAÑA

- Concurso,
- Procedimiento de homologación de acuerdos de refinanciación,
- Procedimiento de acuerdos extrajudiciales de pago,
- Procedimiento de negociación pública para la consecución de acuerdos de refinanciación colectivos, acuerdos de refinanciación homologados y propuestas anticipadas de convenio,

FRANCE

- Sauvegarde,
- Sauvegarde accélérée,
- Sauvegarde financière accélérée,
- Redressement judiciaire,
- Liquidation judiciaire,

HRVATSKA

- Stečajni postupak,
- Predstečajni postupak,
- Postupak stečaja potrošača,
- *Postupak izvanredne uprave u trgovačkim društvima od sistemskog značaja za Republiku Hrvatsku,*

ITALIA

- Fallimento,
- Concordato preventivo,
- Liquidazione coatta amministrativa,
- Amministrazione straordinaria,
- Accordi di ristrutturazione,
- Procedure di composizione della crisi da sovraindebitamento del consumatore (accordo o piano),
- Liquidazione dei beni,

ΚΥΠΡΟΣ

- Υποχρεωτική εκκαθάριση από το Δικαστήριο,
- Εκούσια εκκαθάριση από μέλη,
- Εκούσια εκκαθάριση από πιστωτές
- Εκκαθάριση με την εποπτεία του Δικαστηρίου,
- Διάταγμα παραλαβής και πτώχευσης κατόπιν Δικαστικού Διατάγματος,
- Διαχείριση της περιουσίας προσώπων που απεβίωσαν αφερέγγυα,

LATVIJA

- Tiesiskās aizsardzības process,
- Juridiskās personas maksātnespējas process,
- Fiziskās personas maksātnespējas process,

LIETUVA

- Įmonės restruktūrizavimo byla,
- Įmonės bankroto byla,
- Įmonės bankroto procesas ne teismo tvarka,
- Fizinio asmens bankroto procesas,

LUXEMBOURG

- Faillite,
- Gestion contrôlée,
- Concordat préventif de faillite (par abandon d'actif),
- Régime spécial de liquidation du notariat,
- Procédure de règlement collectif des dettes dans le cadre du surendettement,

MAGYARORSZÁG

- Csődeljárás,
- Felszámolási eljárás,

MALTA

- Xoljiment,
- Amministrazzjoni,
- Stralċ volontarju mill-membri jew mill-kredituri,
- Stralċ mill-Qorti,
- Falliment f'każ ta' kummerċjant,
- Proċedura biex kumpanija tirkupra,

NEDERLAND

- Het faillissement,
- De surséance van betaling,
- De schuldsaneringsregeling natuurlijke personen,

ÖSTERREICH

- Das Konkursverfahren (Insolvenzverfahren),
- Das Sanierungsverfahren ohne Eigenverwaltung (Insolvenzverfahren),
- Das Sanierungsverfahren mit Eigenverwaltung (Insolvenzverfahren),
- Das Schuldenregulierungsverfahren,
- Das Abschöpfungsverfahren,
- Das Ausgleichsverfahren,

POLSKA

- Upadłość,
- Postępowanie o zatwierdzenie układu,
- Przyspieszone postępowanie układowe,
- Postępowanie układowe,
- Postępowanie sanacyjne,

PORTUGAL

- Processo de insolvência,
- Processo especial de revitalização,
- *Processo especial para acordo de pagamento,*

ROMÂNIA

- Procedura insolvenței,
- Reorganizarea judiciară,
- Procedura falimentului,
- Concordatul preventiv,

SLOVENIJA

- Postopek preventivnega prestrukturiranja,
- Postopek prisilne poravnave,
- Postopek poenostavljene prisilne poravnave,
- Stečajni postopek: stečajni postopek nad pravno osebo, postopek osebnega stečaja in postopek stečaja zapuščine,

SLOVENSKO

— Konkurzné konanie,

— Reštrukturalizačné konanie,

— Oddĺženie,

SUOMI/FINLAND

— Konkurssi/konkurs,

— Yrityssaneeraus/företagssanering,

— Yksityishenkilön velkajärjestely/skuldsanering för privatpersoner,

SVERIGE

— Konkurs,

— Företagsrekonstruktion,

— Skuldsanering,

UNITED KINGDOM

- Winding-up by or subject to the supervision of the court,
- Creditors' voluntary winding-up (with confirmation by the court),
- Administration, including appointments made by filing prescribed documents with the court,
- Voluntary arrangements under insolvency legislation,
- Bankruptcy or sequestration.

ANNEX B

Insolvency practitioners referred to in point (5) of Article 2

BELGIQUE/BELGIË

- *De curator/Le curateur,*
- *De gerechtsmandataris/Le mandataire de justice,*
- *De schuldbemiddelaar/Le médiateur de dettes,*
- *De vereffenaar/Le liquidateur,*
- *De voorlopige bewindvoerder/L'administrateur provisoire,*

БЪЛГАРИЯ

- *Назначен предварително временен синдик,*
- *Временен синдик,*
- *(Постоянен) синдик,*
- *Служебен синдик,*
- *Доверено лице,*

ČESKÁ REPUBLIKA

- *Insolvenční správce,*
- *Předběžný insolvenční správce,*
- *Oddělený insolvenční správce,*
- *Zvláštní insolvenční správce,*
- *Zástupce insolvenčního správce,*

DEUTSCHLAND

- *Konkursverwalter,*
- *Vergleichsverwalter,*
- *Sachwalter (nach der Vergleichsordnung),*
- *Verwalter,*
- *Insolvenzverwalter,*
- *Sachwalter (nach der Insolvenzordnung),*
- *Treuhänder,*
- *Vorläufiger Insolvenzverwalter,*
- *Vorläufiger Sachwalter,*

EESTI

— *Pankrotihaldur,*

— *Ajutine pankrotihaldur,*

— *Usaldusisik,*

ÉIRE/IRELAND

— *Liquidator,*

— *Official Assignee,*

— *Trustee in bankruptcy,*

— *Provisional Liquidator,*

— *Examiner,*

— *Personal Insolvency Practitioner,*

— *Insolvency Service,*

ΕΛΛΑΔΑ

— *Ο σύνδικος,*

— *Ο εισηγητής,*

— *Η επιτροπή των πιστωτών,*

— *Ο ειδικός εκκαθαριστής,*

ESPAÑA

— *Administrador concursal,*

— *Mediador concursal,*

FRANCE

— *Mandataire judiciaire,*

— *Liquidateur,*

— *Administrateur judiciaire,*

— *Commissaire à l'exécution du plan,*

HRVATSKA

- *Stečajni upravitelj,*
- *Privremeni stečajni upravitelj,*
- *Stečajni povjerenik,*
- *Povjerenik,*
- *Izvanredni povjerenik,*

ITALIA

- *Curatore,*
- *Commissario giudiziale,*
- *Commissario straordinario,*
- *Commissario liquidatore,*
- *Liquidatore giudiziale,*
- *Professionista nominato dal Tribunale,*
- *Organismo di composizione della crisi nella procedura di composizione della crisi da sovraindebitamento del consumatore,*
- *Liquidatore,*

KYΠΡΟΣ

— *Εκκαθαριστής και Προσωρινός Εκκαθαριστής,*

— *Επίσημος Παραλήπτης,*

— *Διαχειριστής της Πτώχευσης,*

LATVIJA

— *Maksātnespējas procesa administrators,*

— *Tiesiskās aizsardzības procesa uzraugošā persona,*

LIETUVA

— *Bankroto administratorius,*

— *Restruktūrizavimo administratorius,*

LUXEMBOURG

— *Le curateur,*

— *Le commissaire,*

— *Le liquidateur,*

— *Le conseil de gérance de la section d'assainissement du notariat,*

— *Le liquidateur dans le cadre du surendettement,*

MAGYARORSZÁG

— *Vagyongfelügyelő,*

— *Felszámoló,*

MALTA

— *Amministratur Proviżorju,*

— *Riċevitur Uffiċjali,*

— *Stralċjarju,*

— *Manager Speċjali,*

— *Kuraturi f'każ ta' proċeduri ta' falliment,*

— *Kontrolur Speċjali,*

NEDERLAND

— *De curator in het faillissement,*

— *De bewindvoerder in de surséance van betaling,*

— *De bewindvoerder in de schuldsaneringsregeling natuurlijke personen,*

ÖSTERREICH

— *Masseverwalter,*

— *Sanierungsverwalter,*

— *Ausgleichsverwalter,*

— *Besonderer Verwalter,*

— *Einstweiliger Verwalter,*

— *Sachwalter,*

— *Treuhänder,*

— *Insolvenzgericht,*

— *Konkursgericht,*

POLSKA

— *Syndyk,*

— *Nadzorca sądowy,*

— *Zarządca,*

— *Nadzorca układu,*

— *Tymczasowy nadzorca sądowy,*

— *Tymczasowy zarządca,*

— *Zarządca przymusowy,*

PORTUGAL

— *Administrador da insolvência,*

— *Administrador judicial provisório,*

ROMÂNIA

— *Practician în insolvență,*

— *Administrator concordatar,*

— *Administrator judiciar,*

— *Lichidator judiciar,*

SLOVENIJA

— *Upravitelj,*

SLOVENSKO

— *Predbežný správca,*

— *Správca,*

SUOMI/FINLAND

— *Pesänhoitaja/boförvaltare,*

— *Selvittäjä/utredare,*

SVERIGE

— *Förvaltare,*

— *Rekonstruktör,*

UNITED KINGDOM

— *Liquidator,*

— *Supervisor of a voluntary arrangement,*

— *Administrator,*

— *Official Receiver,*

— *Trustee,*

— *Provisional Liquidator,*

— *Interim Receiver,*

— *Judicial factor."*
