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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a Directive of the European Parliament and of the Council harmonising certain aspects of insolvency law - Four column table

Delegations will find in Annex the updated 4-column table following the 8th and 9th interinstitutional technical meetings (ITMs) on the Insolvency Directive which took place on 15 and 16 October 2025.

The 4-column table also contains some questions for Member States regarding possible compromise proposals (lines 105, 134a, 153, 221b, 228, 240a, 240b, 245, 249, 249b, 249d, 256, 260a, 262a, 272, 276, 284, 292, 446, 447, 447a, 471, 483a, 485, 485a and 492) in view of the WP on Civil Law Matters (Insolvency) on 30 October 2025.

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL harmonising certain aspects of insolvency law (Text with EEA relevance)

2022/0408(COD)
Non-versioned [LATEST TEXT]
22-10-2025 at 16h47

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Formula				
1	2022/0408 (COD)	2022/0408 (COD)	2022/0408 (COD)	2022/0408 (COD)
Document Stage				
2	Proposal for a	Proposal for a	Proposal for a	Proposal for a
Document Type				
3	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
Document Purpose				
4	harmonising certain aspects of insolvency law	harmonising certain aspects of insolvency law	harmonising certain aspects of insolvency law	harmonising certain aspects of insolvency law
EEA Relevance				
5	(Text with EEA relevance)	(Text with EEA relevance)	(Text with EEA relevance)	(Text with EEA relevance)
Formula				
6	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
Citation 1					
G 7	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	G
Citation 2					
G 8	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	G
Citation 3					
G 9	After transmission of the draft legislative act to the national Parliaments,	After transmission of the draft legislative act to the national Parliaments,	After transmission of the draft legislative act to the national Parliaments,	After transmission of the draft legislative act to the national Parliaments,	G
Citation 4					
G 10	Having regard to the opinion of the European Economic and Social Committee[1], _____ 1. OJ C [...], [...], p. [...]	Having regard to the opinion of the European Economic and Social Committee[1], _____ 1. OJ C [...], [...], p. [...]	Having regard to the opinion of the European Economic and Social Committee[1], _____ 1. OJ C [...], [...], p. [...]	Having regard to the opinion of the European Economic and Social Committee[1], _____ 1. OJ C [...], [...], p. [...]	G
Citation 5					
G 11	Having regard to the opinion of the Committee of the Regions[1], _____ 1. OJ C [...], [...], p. [...]	Having regard to the opinion of the Committee of the Regions[1], _____ 1. OJ C [...], [...], p. [...]	Having regard to the opinion of the Committee of the Regions[1], _____ 1. OJ C [...], [...], p. [...]	Having regard to the opinion of the Committee of the Regions[1], _____ 1. OJ C [...], [...], p. [...]	G
Citation 6					
G 12	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	G
Formula					

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	13	Whereas:	Whereas:	Whereas:	Whereas:	G
	Recital 1					
G	14	(1) The objective of this Directive is to contribute to the proper functioning of the internal market and remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures in the area of insolvency.	(1) The objective of this Directive is to contribute to the proper functioning of the internal market ***and the Capital Markets Union*** and remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures in the area of insolvency.	(1) The objective of this Directive is to contribute to the proper functioning of the internal market and remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures in the area of insolvency.	(1) The objective of this Directive is to contribute to the proper functioning of the internal market ***and the Capital Markets Union*** and remove obstacles to the exercise of fundamental freedoms, such as the free movement of capital and freedom of establishment, which result from differences between national laws and procedures in the area of insolvency. Text Origin: EP Mandate	G
	Recital 2					
G	15	(2) The wide differences in substantive insolvency laws acknowledged by Regulation (EU) 2015/848 of the European Parliament and of the Council[1] create barriers to the internal market by reducing the attractiveness of cross-border investments, thus impacting the cross-border movement of capital within the Union and to and from third countries.	(2) The wide differences in substantive insolvency laws acknowledged by Regulation (EU) 2015/848 of the European Parliament and of the Council[1] ***and the stark divergence in the quality of domestic insolvency procedures as measured by the World Bank in its Doing Business studies*** create barriers to the internal market by reducing the attractiveness of cross-border	(2) The wide differences in substantive insolvency laws acknowledged by Regulation (EU) 2015/848 of the European Parliament and of the Council[1] create barriers to the internal market by reducing the attractiveness of cross-border investments, thus impacting the cross-border movement of capital within the Union and to and from third countries.	(2) The wide differences in substantive insolvency laws acknowledged by Regulation (EU) 2015/848 of the European Parliament and of the Council[1] create barriers to the internal market by reducing the attractiveness of cross-border investments, thus impacting the cross-border movement of capital within the Union and to and from third countries. ***Those differences***	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	_____ 1. 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).	investments, thus impacting the cross-border movement of capital within the Union and to and from third countries. ***Those differences also mean that harmonising certain aspects of insolvency law could entail changes in some Member States.*** _____ 1. 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).	_____ 1. 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).	***also mean that harmonising certain aspects of insolvency law could entail changes in some Member States.*** _____ 1. 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). First addition of the EP deleted, second EP addition kept. Text Origin: EP Mandate
Recital 3				
16	(3) Insolvency proceedings ensure the orderly winding down or restructuring of companies or entrepreneurs in financial and economic distress. These proceedings are key in financial investments, as they determine the final recovery value of such investments. Diverging rules among Member States have contributed to increasing legal uncertainty and unpredictability about insolvency proceedings' outcome, so raising barriers	(3) Insolvency proceedings ensure the orderly winding ~~*down*~~***up*** or restructuring of companies or entrepreneurs in financial and economic distress. These proceedings are key in financial investments, as they determine the final recovery value of such investments. Diverging rules among Member States have contributed to increasing legal uncertainty and unpredictability about ***the value of companies and the outcome of*** insolvency	(3) Insolvency proceedings ensure the orderly ~~winding down~~**winding-up** or restructuring of companies or entrepreneurs in financial and economic distress. ~~These~~**Those** proceedings are key in financial investments, as they determine the final recovery value of such investments. Diverging rules among Member States have contributed to increasing legal uncertainty and unpredictability about **the outcome of** insolvency proceedings~~' outcome~~, so raising	New text suggested: "Those proceedings are key...including the relevant safeguards with respect to the determination of the value of the companies..."

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	especially for cross-border investments in the internal market. Large divergences in recovery value and time required to complete insolvency proceedings across the Union have negative repercussions on cost predictability for creditors and investors in cross-border situations in the internal market.	proceedings~~' outcome~~, so raising barriers especially for cross-border investments in the internal market. Large divergences in recovery value and time required to complete insolvency proceedings across the Union have negative repercussions on cost predictability for creditors and investors in cross-border situations in the internal market.	barriers especially for cross-border investments ~~in~~**within** the internal market. Large divergences in recovery value and time required to complete insolvency proceedings across the Union have negative repercussions on cost predictability for creditors and investors in cross-border situations in the internal market.	
Recital 4				
G 17	(4) The integration of the internal market in the area of insolvency laws pursued by this Directive is a key tool for a more efficient functioning of the capital markets in the European Union, including greater access to corporate financing. Therefore, it is necessary to set out minimum requirements in targeted areas of national insolvency proceedings, which have a significant impact on the efficiency and length of such proceedings, especially on cross-border insolvency proceedings.	(4) The integration of the internal market in the area of insolvency laws pursued by this Directive is a key tool for a more efficient functioning of the capital markets in the European Union, including greater access to corporate ***debt*** financing. Therefore, it is necessary to set out minimum requirements in targeted areas of national insolvency proceedings, which have a significant impact on the efficiency and length of such proceedings, especially on cross-border insolvency proceedings.	(4) The integration of the internal market in the area of insolvency laws pursued by this Directive is a key tool for a more efficient functioning of the capital markets in the European Union, including greater access to corporate financing. Therefore, it is necessary to set out minimum requirements in targeted areas of national insolvency proceedings, which have a significant impact on the efficiency and length of such proceedings, especially on cross-border insolvency proceedings.	(4) The integration of the internal market in the area of insolvency laws pursued by this Directive is a key tool for a more efficient functioning of the capital markets in the European Union, including greater access to corporate financing. Therefore, it is necessary to set out minimum requirements in targeted areas of national insolvency proceedings, which have a significant impact on the efficiency and length of such proceedings, especially on cross-border insolvency proceedings. Text Origin: Commission Proposal G
Recital 4a				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
17a		***(4a) The harmonisation of insolvency proceedings is associated with lower costs of credit, increased access to credit and improved creditor recovery and it could also serve as an effective protection for workers. At the same time, one of the goals when completing the Capital Market Union is to stimulate more equity financing.***		Remains open. Commission to suggest new text.
Recital 5				
18	(5) In order to protect the value of the insolvency estate for creditors, national insolvency laws should include effective rules that enable the annulment of legal acts that are detrimental to creditors and have been perfected prior to the opening of insolvency proceedings (avoidance actions). Given that avoidance actions aim at reversing the detrimental effects for the estate of the legal act, it is appropriate to refer to the completion of the cause for this detriment as the relevant point in time, namely to the perfection of the legal act rather than to the execution of the performance. For instance, in the case of electronic	(5) In order to protect the value of the insolvency estate for creditors, national insolvency laws should include effective rules that enable the annulment of legal acts that are detrimental to creditors and have been perfected prior to the opening of insolvency proceedings (avoidance actions). Given that avoidance actions aim at reversing the detrimental effects for the estate of the legal act, it is appropriate to refer to the completion of the cause for this detriment as the relevant point in time, namely to the perfection of the legal act rather than to the execution of the performance. For instance, in the case of electronic	(5) In order to protect the value of the insolvency estate for creditors, national insolvency laws should include effective rules ~~that enable the annulment~~**on avoidance actions** of legal acts**, including legal transactions,** that are detrimental to creditors and have been perfected prior to the opening of insolvency proceedings ~~(avoidance actions). Given that avoidance actions aim at reversing~~ The **determination of whether a legal act is** detrimental ~~effects for the estate of the legal act, it is appropriate to refer~~ to the ~~completion~~**general body of creditors is to be carried out against the background of**	A new revised text to split the current one in two or three parts. Commission to reflect on this.

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	money transfer, the relevant point in time should not be when the debtor instructs the financial institution to transfer the money to a creditor (performance of the legal act) but rather when the creditor's account is credited (perfection of the legal act). Avoidance actions rules should also allow for the compensation of the insolvency estate for the detriment caused to creditors by such legal acts.	money transfer, the relevant point in time should not be when the debtor instructs the financial institution to transfer the money to a creditor (performance of the legal act) but rather when the creditor's account is credited (perfection of the legal act). Avoidance actions rules should also allow for the compensation of the insolvency estate for the detriment caused to creditors by such legal acts.	**national insolvency rules, in particular on the definition** of the ~~cause for this detriment as the~~**insolvency estate and the participating creditors. This is especially** relevant ~~point in time, namely to the perfection of the legal act rather than to the execution of the performance. For instance, in the case of electronic money transfer, the relevant point in time should not be when the debtor instructs the financial institution to transfer the money to a creditor (performance of the legal act) but rather when the creditor's account is credited (perfection of the legal act). Avoidance actions rules should also allow for the compensation~~**where certain rights do not form part** of the insolvency estate ~~for the detriment caused to~~**under national law but pertain to the debtor's personal sphere, for example the right to enter into or end a marriage or adopt a child. The acceptance or rejection of an inheritance should not be subject to the avoidance rules under this Directive. As this Directive lays**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			down minimum rules, Member States should be able to maintain or adopt provisions that are more favourable to the general body of creditors ~~by such~~**. In particular, Member States should be able to provide for longer look-back periods, extend the list of persons considered as parties closely related to the debtor, or expand the range of** legal acts **that can be the subject of avoidance actions**. **Member States should also be able to provide for presumptions or requirements that alleviate the burden of proof in favour of the party claiming that the legal act is, voidable or unenforceable.**	
Recital 5a				
18a			**(5a) Given that avoidance actions aim to reverse the detrimental effects of a legal act on the insolvency estate, it is appropriate to consider that the detriment is caused upon the perfection of the legal act and not upon the execution of the performance. A legal act should be considered perfected when it unfolds its legal effects in**	Linked to Line 134a. Council to check the line with the operative part. Linguistic revision needed.

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			accordance with national law. Where, pursuant to national law, the legal effects of a legal act are conditional upon an entry of the legal act in a public register, since the time of the registration in a public register is beyond the control of the debtor or of the parties to the legal act concerned, it is advisable to consider the legal act to be perfected as soon as all the other requirements for its effectiveness have been met.	
Recital 5b				
18b		***(5a) The minimum standards provided for in this Directive aim to approximate the insolvency laws of the Member States, taking into account, in particular, the following objectives: to maximise legal certainty as to the value of companies; to improve the efficiency of insolvency proceedings in terms of both costs and duration; to improve the predictability and fair distribution of value among creditors; and to preserve the operations and viability of companies.***		Combine text with Line 17a.
Recital 6				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
19	(6) The scope of the legal acts that could be challenged under the avoidance actions rules should be drawn broadly, in order to cover any human behaviour with legal effects. The principle of equal treatment of creditors implies that legal acts should also include omissions, as it makes no significant difference if creditors suffer a detriment as a consequence of an action or of the passivity of the party concerned. For instance, it makes no difference whether a debtor actively waives a claim against his or her obligor or whether he or she remains passive and accepts the claim to become time-barred. Further examples of omissions that may be subject to avoidance actions include the omission to challenge a disadvantageous judgement or other decisions of courts or public authorities or the omission to register an intellectual property right. For the same reason, avoidance rules should not be restricted to legal acts performed by the debtor, but should also include legal acts performed by the counterparty or	(6) The scope of the legal acts that could be challenged under the avoidance actions rules should be ~~*drawn*~~***interpreted*** broadly, in order to cover any human behaviour with legal effects ***that is detrimental to the general body of creditors***. The principle of equal treatment of creditors implies that legal acts should also include omissions, as it makes no significant difference if creditors suffer a detriment as a consequence of an action or of the passivity of the party concerned. For instance, it makes no difference whether a debtor actively waives a claim against his or her obligor or whether he or she remains passive and accepts the claim to become time-barred. Further examples of omissions that may be subject to avoidance actions include the omission to challenge a disadvantageous judgement or other decisions of courts or public authorities or the omission to register an intellectual property right. For the same reason, avoidance rules should not be restricted to legal acts performed by the debtor, but	(6) The ~~scope of the~~ legal acts that could be challenged under the avoidance actions rules should be ~~drawn~~**interpreted** broadly~~, in order~~ to cover any ~~human~~**deliberate** behaviour with legal effects~~. The principle of equal treatment~~ **that is of detriment to the general body** of creditors**, irrespective of whether the legal effects or the detriment is intended by the person performing the behaviour, including if there is no fraudulent purpose, notwithstanding the provisions of other areas of law. Acts where the person performing the behaviour does not act consciously or in any other way in line with their free will are not considered as legal acts. Member States should be able to provide** ~~implies~~ that legal acts ~~should~~**may** also include omissions, as it ~~makes~~**is of** no significant difference ~~if~~**whether** creditors suffer a detriment as a consequence of an action or of the passivity of the party concerned. ~~For instance, it makes no difference whether a debtor~~	Remains open. The sentence on "omission" should be revised, political issue.

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	by a third party. On the other hand, only legal acts should be subject to avoidance rules which are detrimental to the general body of creditors.	should also include legal acts performed by the ***debtor' s*** counterparty or by a third party. On the other hand, only legal acts should be subject to avoidance rules which are detrimental to the general body of creditors.	~~actively waives a claim against his or her obligor or whether he or she remains passive and accepts the claim to become time-barred. Further examples of omissions that may be subject to avoidance actions include the omission to challenge a disadvantageous judgement or other decisions of courts or public authorities or the omission to register an intellectual property right. For the same reason~~ **Similarly**, avoidance rules should not be restricted to legal acts performed by the debtor, but should also include legal acts performed by the **debtor's** counterparty or by a third party. ~~On the other hand, only legal acts should be subject to avoidance rules which are detrimental to the general body of creditors.~~	
Recital 7				
20	(7) To protect the legitimate expectations of the debtor's counterparty, any interference with the validity or enforceability of a legal act should be proportionate to the circumstances under which that act is perfected. Such circumstances should include the	(7) To protect the legitimate expectations of the debtor's counterparty, any interference with the validity or enforceability of a legal act should be proportionate to the circumstances under which that act is perfected. Such circumstances should include the	(7) To protect the legitimate expectations of the debtor's counterparty, any interference with the validity or enforceability of a legal act should be proportionate to the circumstances under which that act is perfected. Such circumstances ~~should~~**may** include	(7) To protect the legitimate expectations of the debtor's counterparty, any interference with the validity or enforceability of a legal act should be proportionate to the circumstances under which that act is perfected. Such ~~circumstances should~~

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	debtor's intent, the knowledge of the counterparty or the time-span between the perfection of the legal act and the commencement of the insolvency proceedings. Therefore, it is necessary to distinguish between a variety of specific avoidance grounds that are based on common and typical fact patterns and that should complement the general prerequisites for avoidance actions. Any interference should also respect the fundamental rights enshrined in the Charter of Fundamental Rights of the European Union.	debtor's intent, the knowledge of the counterparty or the time-span between the perfection of the legal act and the commencement of the insolvency proceedings. Therefore, it is necessary to distinguish between a variety of specific avoidance grounds that are based on common and typical fact patterns and that should complement the general prerequisites for avoidance actions. Any interference should also respect the fundamental rights enshrined in the Charter of Fundamental Rights of the European Union.	the debtor's intent, the knowledge of the counterparty or the ~~time-span~~**time that elapsed** between the perfection of the legal act and the commencement of the insolvency proceedings. Therefore, it is necessary to distinguish between a variety of specific avoidance grounds that are based on common and typical fact patterns and that should complement the general prerequisites for avoidance actions. Any interference should also respect the fundamental rights enshrined in the Charter of Fundamental Rights of the European Union.	***circumstance [***include***]*** the debtor's intent, the knowledge of the counterparty or the ~~*time-span*~~***time that elapsed*** between the perfection of the legal act and the commencement of the insolvency proceedings. Therefore, it is necessary to distinguish between a variety of specific avoidance grounds that are based on common and typical fact patterns and that should complement the general prerequisites for avoidance actions. Any interference should also respect the fundamental rights enshrined in the Charter of Fundamental Rights of the European Union. Council to check on the issue of "may". Agreement on the "time that elapsed". Text Origin: Council Mandate
Recital 7a				
Y 20a			**(7a) In the case of due payments made by the debtor, specific circumstances may**	EP to check Y

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			justify their voidness, voidability or unenforceability, such as the creditor's special knowledge of the debtor's situation. Generally, the avoidance action should cover a certain minimum period prior to the date of the submission of the request for the opening of insolvency proceedings, or in those Member States where the insolvency proceedings can also be opened by the resolution of the members of the debtor, prior to the date of the resolution to commence insolvency proceedings. On principle, the voidness, voidability or unenforceability of a legal act should not depend on the time that the court takes to examine a request to open insolvency proceedings or for a resolution to be passed, pursuant to national law.	
Recital 8				
Y	21 (8) In the context of avoidance actions, a distinction should be made between legal acts where the claim of the counterparty was due and enforceable and has been satisfied	21 (8) In the context of avoidance actions, a distinction should be made between legal acts where the claim of the counterparty was due and enforceable and has been satisfied	21 (8) In the context of avoidance actions, a distinction should be made between legal acts where the claim of the counterparty was due and enforceable and has been satisfied	21 (8) In the context of avoidance actions, a distinction should be made between legal acts where the claim of the counterparty was due and enforceable and has been satisfied

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	in the owed manner (congruent coverages) and those where performance was not entirely in accordance with the creditor's claim (incongruent coverage). Incongruent coverages include, in particular, premature payments, the satisfaction with unusual means of payments, the subsequent collateralisation of a so far unsecured claim which was not already agreed upon in the original debt agreement, granting an extraordinary termination right or other amendments not provided for in the underlying contract, the waiver of legal defences or objections or the acknowledgement of disputable debts. In the case of congruent coverages, the avoidance ground of preferences can only be invoked if the creditor of the legal act that can be declared void knew, or should have known, at the time of the transaction that the debtor was insolvent.	in the owed manner (congruent coverages) and those where performance was not entirely in accordance with the creditor's claim (incongruent coverage). Incongruent coverages include, in particular, premature payments, the satisfaction with unusual means of payments, the subsequent collateralisation of a so far unsecured claim which was not already agreed upon in the original debt agreement, granting an extraordinary termination right or other amendments not provided for in the underlying contract, the waiver of legal defences or objections or the acknowledgement of disputable debts. In the case of congruent coverages, the avoidance ground of preferences can only be invoked if the creditor of the ***void, voidable or unenforceable*** legal act that ~~*can be declared void knew, or should have known*~~***knew***, at the time of the transaction**,** that the debtor was insolvent.	**or secured** in the owed manner (**"**congruent ~~overages~~**coverage"**) and those where **the** performance was not entirely in accordance with the creditor's claim (**"**incongruent coverage**"**). **In the context of congruent and incongruent coverages satisfaction and collateralisation of the claim of the counterparty should be interpreted broadly, also including acts such as creating a right to set-off or granting creditors a privileged status. Examples of** incongruent coverages include, in particular, premature payments, the satisfaction with unusual means of payments, the subsequent collateralisation of a so far unsecured claim which was not already agreed upon in the original debt agreement, granting an extraordinary termination right or other amendments not provided for in the underlying contract, the waiver of legal defences ~~or~~**,** objections or the acknowledgement of disputable debts. In the case of congruent coverages, the avoidance ground of preferences can only be invoked	***or secured*** in the owed manner (***"***congruent ~~*coverages*~~***coverage"***) and those where ***the*** performance was not entirely in accordance with the creditor's claim (***"***incongruent coverage***"***). ***In the context of congruent and incongruent coverages, the terms satisfaction and collateralisation of the claim of the counterparty should be interpreted broadly, also including acts such as creating a right to set-off or granting creditors a privileged status. Examples of*** incongruent coverages include, in particular, premature payments, the satisfaction with unusual means of payments, the subsequent collateralisation of a so far unsecured claim which was not already agreed upon in the original debt agreement, granting an extraordinary termination right or other amendments not provided for in the underlying contract, the waiver of legal defences ~~*or*~~**,** objections or the acknowledgement of disputable debts. In the case of congruent coverages, the avoidance ground of preferences can only be invoked

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			if the creditor of the legal act that ~~can be declared void~~ **is void, voidable or unenforceable** knew~~,~~ ~~or should have known,~~ at the time of the transaction that the debtor was insolvent.	if the creditor of the legal act that ~~*can be declared void*~~ ***is void, voidable or unenforceable*** knew~~,~~ ~~*or should have known,*~~ at the time of the transaction that the debtor was insolvent. EP to check Text Origin: Council Mandate
Recital 9				
22	(9) Certain congruent coverages, namely legal acts that are performed directly against fair consideration to the benefit of the insolvency estate, should be exempted from the scope of legal acts that can be declared void. Those legal acts aim at supporting the ordinary daily activity of the debtor's business. Legal acts falling under this exception should have a contractual basis, and require the direct exchange of the mutual performances, but not necessarily a simultaneous exchange of performances, as, in some cases, unavoidable delays may result from practical circumstances. However, this	(9) Certain congruent coverages, namely legal acts that are performed directly against fair consideration to the benefit of the ~~*insolvency estate*~~***debtor's asset***, should be exempted from the scope of ***voidable and unenforceable*** legal acts ~~*that can be declared void*~~. Those legal acts aim at supporting the ordinary daily activity of the debtor's business. Legal acts falling under this ~~*exception*~~***exemption*** should have a contractual basis, and require the direct exchange of the mutual performances, but not necessarily a simultaneous exchange of performances, as, in some cases, unavoidable delays	(9) Certain congruent coverages, namely legal acts that are performed directly against fair consideration to the benefit of the ~~insolvency estate~~**debtor's assets**, should be exempted from the scope of legal acts that ~~can be declared void~~ **are void, voidable or unenforceable**. Those legal acts aim at supporting the ordinary daily activity of the debtor's business. **Such** legal acts ~~falling under this exception~~ should have a contractual basis, and require the direct exchange of the mutual performances~~, but not necessarily a simultaneous exchange of performances, as, in some cases, unavoidable delays may result~~	Netting and social security contributions (subject to political agreement on the latter) possibly to be put in a new recital linked to Article 6(3). EP will come back on the rest of the text.

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	exemption should not cover the granting of credit. Furthermore, performance and counter-performance in those legal acts should have an equivalence in value. At the same time, the counter-performance should benefit the estate and not a third party. This exception should cover, in particular, prompt payment of commodities, wages, or service fees, in particular for legal or economic advisors; cash or card payment of goods necessary for the debtor's daily activity; delivery of goods, products, or services against payment by return; creation of a security right against disbursement of the loan; prompt payment of public fees against consideration (e.g. admittance to public grounds or institutions).	may result from practical circumstances. However, this exemption should not cover the granting of credit. Furthermore, performance and counter-performance in those legal acts should have an equivalence in value. At the same time, the counter-performance should benefit the ~~*estate*~~***debtor*** and not a third party. This ~~*exception*~~***exemption*** should cover, in particular, prompt payment of commodities, wages, or service fees, in particular for legal or economic advisors; cash or card payment of goods necessary for the debtor's daily activity; delivery of goods, products, or services against payment by return; creation of a security right against disbursement of the loan; prompt payment of public fees against consideration (e.g. admittance to public grounds or institutions). ***In addition, it should also cover, where relevant, contribution payments to social security authorities and entering into netting arrangements.***	~~from practical circumstances~~. However, this exemption should not cover the granting of credit. Furthermore, performance and counter-performance in those legal acts should ~~have an equivalence~~**be equivalent** in value. At the same time, the counter-performance should benefit the ~~estate~~**debtor** and not a third party. This ~~exception~~**exemption** should cover, in particular, prompt payment of commodities, wages, or service fees~~, in particular for legal or economic advisors~~; cash or card payment of goods necessary for the debtor's daily activity; delivery of goods, products, or services against payment by return; creation of a security right against disbursement of the loan **or during the continuation of a loan, if this is necessary against the background of national rules to maintain an equivalence in value between performance and counter-performance**; prompt payment of public fees against consideration ~~(e.g.~~**such as** admittance to public grounds or institutions~~)~~. **The payment of wages to the debtor's employees**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			may, in accordance with national law, be deemed to be performed directly if it is made within three months of the performance of the services by the employee to be remunerated.	
Recital 10				
23	(10) New- or interim financing provided during a restructuring attempt, including in the course of a preventive insolvency procedure under Title II of Directive (EU) 2019/1023 of the European Parliament and of the Council[1], should be protected in subsequent insolvency proceedings. Consequently, avoidance actions on the ground of preferences should not be permitted against payments to or collateralisation in favour of the providers of such new- or interim financing, if those payments or collateralisations are performed in accordance with the claims of the providers. Such payments or collateralisation should be considered, therefore, as legal acts performed directly against fair consideration to the benefit of the insolvency estate. _____	(10) New- ***financing*** or interim financing provided during a restructuring attempt, including in the course of a preventive insolvency procedure under Title II of Directive (EU) 2019/1023 of the European Parliament and of the Council[1], should be protected in subsequent insolvency proceedings. Consequently, avoidance actions on the ground of preferences should not be permitted against payments to or collateralisation in favour of the providers of such new- or interim financing, if those payments or collateralisations are performed in accordance with the claims of the providers. Such payments or collateralisation should be considered, therefore, as legal acts performed directly against fair consideration to the benefit of the insolvency estate.	(10) New- **financing** or interim financing provided during a restructuring attempt**, in accordance with the requirements of national law**, including in the course of a preventive insolvency procedure under Title II of Directive (EU) 2019/1023 of the European Parliament and of the Council[1], should be protected in subsequent insolvency proceedings. ~~Consequently, avoidance actions on the ground of preferences should not be permitted against payments to or collateralisation in favour of the providers of such new- or interim financing, if those payments or collateralisations are performed in accordance with the claims of the providers. Such payments or collateralisation should be considered, therefore, as legal acts performed directly~~	Council deleted due to a possible misunderstanding on the interpretation of the Restructuring Directive. EP to check

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	1. Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency) (OJ L 172, 26.6.2019, p. 18).	_____ 1. Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency) (OJ L 172, 26.6.2019, p. 18).	~~against fair consideration to the benefit of the insolvency estate.~~ _____ 1. Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency) (OJ L 172, 26.6.2019, p. 18).	
Recital 10a				
Y	23a		**(10a) As an instrument of minimum harmonisation, this Directive does not interfere with the national laws on the validity of legal acts subject to avoidance rules. It is, therefore, for Member States to decide if they consider the detrimental legal act *ipso iure* void, render it ineffective or unenforceable, or require the annulment of that legal act by the court.**	***(10a) As an instrument of minimum harmonisation, this Directive does not interfere with the national laws on the validity of legal acts subject to avoidance rules. It is, therefore, for Member States to decide if they consider the detrimental legal act ipso iure void, render it ineffective or unenforceable, or require the annulment of that legal act by the court.***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				EP to check Text Origin: Council Mandate
Recital 11				
G 24	(11) The main consequence of declaring a legal act void in avoidance proceedings is the obligation for the party benefiting from the legal act that has been declared void to compensate the insolvency estate for the detriment caused by such legal act. Compensation should include emoluments, where relevant, and interest, in accordance with the applicable general civil law. The compensation implies the payment of a sum equivalent to the value of the performance received if it cannot be returned in natura to the insolvency estate.	(11) The main consequence of ~~declaring~~ a legal act ***being void, voidable or unenforceable*** ~~*void*~~ in avoidance proceedings is the obligation for the party benefiting from the ***void, voidable or unenforceable*** legal act ~~*that has been declared void*~~ to compensate the insolvency estate for the detriment caused by such legal act. Compensation should include emoluments, where relevant, and interest, in accordance with the applicable ~~*general*~~ civil law. The compensation implies the payment of a sum equivalent to the value of the performance received if it cannot be returned in natura to the insolvency estate. ***It should be possible to bring avoidance actions against individual successors of the debtor if they acquired the asset against no or manifestly inadequate consideration or if they acquired***	(11) The main consequence of ~~declaring a legal act void~~**voidness, voidability or unenforceability** in avoidance proceedings is the obligation for the party ~~benefiting~~**benefitting** from the legal act that ~~has been declared void to compensate the insolvency estate for the detriment~~**is void, voidable or unenforceable to return the benefits** caused by such legal act **to the insolvency estate. This**~~. Compensation~~ should include emoluments, where relevant, and interest, in accordance with the applicable ~~general~~ civil law~~. The compensation implies~~ **and could be deemed fulfilled by the return of the consideration in kind or by** the payment of ~~a sum~~**its monetary** equivalent**, in accordance with national law. It should be possible to bring the avoidance actions against**	(11) The main consequence of ~~*declaring a legal act void*~~***voidness, voidability or unenforceability*** in avoidance proceedings is the obligation for the party ~~*benefiting*~~***benefitting*** from the legal act that ~~*has been declared void to compensate the insolvency estate for the detriment*~~***is void, voidable or unenforceable to return the benefits*** caused by such legal act ***to the insolvency estate. This***~~*. Compensation*~~ should include emoluments, where relevant, and interest, in accordance with the applicable ~~*general*~~ civil law~~*. The compensation implies*~~ ***and could be deemed fulfilled by the return of the consideration in kind or by*** the payment of ~~*a sum*~~***its monetary*** equivalent***, in accordance with national law. It should be possible to bring the avoidance actions against individual successors*** ~~*to*~~ G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		the asset while knowing the circumstances on which the avoidance actions are based.	**individual successors** ~~to the value~~ of the ~~performance received if it cannot be returned in natura to the insolvency estate~~**debtor if they acquired the asset while knowing the circumstances on which the avoidance actions are based**.	~~*the value*~~ of the ~~*performance received if it cannot be returned in natura to the insolvency estate*~~***debtor if they acquired the asset while knowing the circumstances on which the avoidance actions are based***. LL to work on the wording on "voidness" across the whole text. Text Origin: Council Mandate
Recital 12				
G 25	(12) Parties who are closely related to the debtor, such as relatives in case the debtor is a natural person or actors fulfilling decisive roles in relation to a debtor that is a legal entity, usually enjoy an information advantage with regard to the financial situation of the debtor. In order to prevent abusive behaviours, additional safeguards should be established. Consequently, in the context of avoidance actions, legal presumptions about the knowledge of the circumstances on which the conditions for avoidance were based should be introduced when	(12) Parties who are closely related to the debtor, such as relatives in case the debtor is a natural person or actors fulfilling decisive roles in relation to a debtor that is a legal entity, usually enjoy an information advantage with regard to the financial situation of the debtor. In order to prevent abusive behaviours, additional safeguards should be established. Consequently, in the context of avoidance actions, legal presumptions about the knowledge of the circumstances on which the conditions for avoidance were based should be introduced when	(12) Parties who are closely related to the debtor, such as relatives in case the debtor is a natural person or actors fulfilling decisive roles in relation to a debtor that is a legal entity, usually enjoy an information advantage with regard to the financial situation of the debtor. In order to prevent abusive behaviours, additional safeguards should be established. Consequently, in the context of avoidance actions, legal presumptions about the knowledge of the circumstances on which the conditions for avoidance were based should be introduced when	(12) Parties who are closely related to the debtor, such as relatives in case the debtor is a natural person or actors fulfilling decisive roles in relation to a debtor that is a legal entity, usually enjoy an information advantage with regard to the financial situation of the debtor. In order to prevent abusive behaviours, additional safeguards should be established. Consequently, in the context of avoidance actions, legal presumptions about the knowledge of the circumstances on which the conditions for avoidance were based should be introduced when G

Public

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	the other party involved in the legal act that can be declared void is a party closely related to the debtor. These presumptions should be rebuttable and should aim at reversing the burden of proof to the benefit of the insolvency estate.	the other party involved in the ***void, voidable and unenforceable*** legal act ~~*that can be declared void*~~ is a party closely related to the debtor. These presumptions should be rebuttable and should aim at reversing the burden of proof to the benefit of the insolvency estate.	the other party involved in the legal act that ~~can be declared void~~**is void, voidable or unenforceable** is a party closely related to the debtor. ~~These~~**Those** presumptions should be rebuttable and should aim at reversing the burden of proof to the benefit of the insolvency estate.	the other party involved in the legal act that ~~*can be declared void*~~***is void, voidable or unenforceable*** is a party closely related to the debtor. ~~*These*~~***Those*** presumptions should be rebuttable and should aim at reversing the burden of proof to the benefit of the insolvency estate. LL to work on the wording on "voidness" across the whole text Text Origin: Council Mandate
Recital 13				
G 26	(13) Improving the possibilities of insolvency practitioners to identify and trace assets belonging to the insolvency estate is essential for the maximisation of the value of that estate. When performing their duties, insolvency practitioners may, already now, access information held in public data registers, partly set up by Union law and interconnected at European level, such as the Business Registers Interconnection System (BRIS), the system of Insolvency Registers	(13) Improving the ~~*possibilities of*~~***means available for*** insolvency practitioners to identify and trace assets belonging to the insolvency estate***, including those subject to avoidance actions,*** is essential for the maximisation of the value of that estate. When performing their duties, insolvency practitioners may, already now, access information held in public data registers, partly set up by Union law and interconnected at European level, such as the Business Registers Interconnection	(13) Improving the ~~possibilities of~~**means available to** insolvency practitioners **in order** to identify and trace assets belonging to the insolvency estate**, as well as assets subject to avoidance actions,** is essential ~~for the maximisation of~~**to maximise** the value of that estate. When performing their duties, insolvency practitioners ~~may, already now,~~**can** access information held in public data registers, ~~partly set up by~~**some of which have been established under** Union law and **are**	(13) Improving the ~~*possibilities of*~~***means available to*** insolvency practitioners ***in order*** to identify and trace assets belonging to the insolvency estate***, as well as assets subject to avoidance actions,*** is essential ~~*for the maximisation of*~~***to maximise*** the value of that estate. When performing their duties, insolvency practitioners ~~*may, already now,*~~***can*** access information held in public data registers, ~~*partly set up by*~~***some of which have been established under*** Union law and ***are*** G

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	Interconnection (IRI) or the Beneficial Ownership Registers Interconnection System (BORIS). Accessing the information held in public databases, however, is often not satisfactory to identify and trace important assets that are or should be in the perimeter of the insolvency estate. In particular, insolvency practitioners face practical difficulties when they try to access asset registers situated abroad.	System (BRIS), the system of Insolvency Registers Interconnection (IRI) or the Beneficial Ownership Registers Interconnection System (BORIS). Accessing the information held in public databases, however, is often not satisfactory to identify and trace important assets that are or should be in the perimeter of the insolvency estate. In particular, insolvency practitioners face practical difficulties when they try to access asset registers situated ~~abroad~~***in a Member State other than that in which they have been appointed***.	interconnected at European level, such as the Business Registers Interconnection System (BRIS)~~,~~ **or** the system of Insolvency Registers Interconnection (IRI) ~~or the Beneficial Ownership Registers Interconnection System (BORIS). Accessing the~~**. Having access only to** information held in public databases, however, is often not ~~satisfactory~~**sufficient in order** to identify and trace ~~important~~ assets that are**,** or should ~~be in the perimeter~~**form, part** of the insolvency estate. In particular, insolvency practitioners face practical difficulties when they try to access asset registers ~~situated abroad~~**located in Member States other than that in which they have been appointed**.	interconnected at European level, such as the Business Registers Interconnection System (BRIS)~~,~~ ***or*** the system of Insolvency Registers Interconnection (IRI) ~~*or the Beneficial Ownership Registers Interconnection System (BORIS). Accessing the*~~***. Having access only to*** information held in public databases, however, is often not ~~*satisfactory*~~***sufficient in order*** to identify and trace ~~*important*~~ assets that are**,** or should ~~*be in the perimeter*~~***form, part*** of the insolvency estate. In particular, insolvency practitioners face practical difficulties when they try to access asset registers ~~*situated abroad*~~***located in Member States other than that in which they have been appointed***. Text Origin: Council Mandate
Recital 14				
G 27	(14) It is therefore necessary to lay down provisions to ensure that insolvency practitioners, when performing their duties in insolvency proceedings, can have, either directly or indirectly, access	(14) It is therefore necessary to lay down provisions to ensure that insolvency practitioners, when performing their duties in insolvency proceedings, can have, either directly or indirectly, access	(14) It is therefore necessary to lay down provisions to ensure that insolvency practitioners, when performing their duties in insolvency proceedings, can have, either directly or indirectly, access	(14) It is therefore necessary to lay down provisions to ensure that insolvency practitioners, when performing their duties in insolvency proceedings, can have, either directly or indirectly, access G

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	to information held in databases which are not publicly accessible.	to information held in databases which are not publicly accessible.	to information held in databases which are not publicly accessible.	to information held in databases which are not publicly accessible.
Recital 15				
28	(15) Prompt direct access to centralised bank account registries or data retrieval systems is often indispensable for the maximisation of the value of the insolvency estate. Therefore, rules should be laid down granting direct access to information held in centralised bank account registries or data retrieval systems to designated Member States' courts that have jurisdiction in insolvency proceedings. Where a Member State provides access to bank account information through a central electronic data retrieval system, that Member State should ensure that the authority operating the retrieval system reports search results in an immediate and unfiltered way to the designated courts.	(15) Prompt direct access to ~~centralised~~ bank account ~~registries or data retrieval systems~~***registers*** is often indispensable for the maximisation of the value of the insolvency estate. Therefore, rules should be laid down granting direct access to information held in ~~centralised~~ bank account ~~registries or data retrieval systems to~~***registers for the*** designated ***courts or authorities of the*** Member States~~' courts that have jurisdiction in insolvency proceedings~~. Where a Member State provides access to bank account information through a central electronic data retrieval system, that Member State should ensure that the authority operating the retrieval system reports search results in an immediate and unfiltered way to the designated courts ***or administrative authorities***.	(15) ~~Prompt~~**Immediate** direct access to ~~centralised~~ bank account ~~registries or~~**registers and electronic** data retrieval systems is often indispensable ~~for the maximisation of~~**to maximise** the value of the insolvency estate. Therefore, rules should be laid down ~~granting~~**providing for** direct access to information held in ~~centralised~~**the** bank account ~~registries or~~**registers and electronic** data retrieval systems ~~to~~**for the** designated **courts or authorities of the** Member States~~' courts that have jurisdiction in~~**. For the purposes of tracing and identifying assets belonging to the** insolvency ~~proceedings~~**estate, as well as assets subject to avoidance actions, it may be necessary that access be granted not only to the bank account information of the debtor but also to the bank account information of third parties where there are reasonable grounds to consider that they**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			are beneficiaries of void, voidable or unenforceable legal acts. Where a Member State provides access to bank account information through a central electronic data retrieval system, that Member State should ensure that the authority operating the retrieval system reports search results in an immediate and unfiltered way to the designated courts **or authorities**.	
Recital 16				
29	(16) In order to respect the right to the protection of personal data and the right to privacy, direct and immediate access to bank account registries should be granted only to courts with jurisdiction in insolvency proceedings that are designated by the Member States for that purpose. Insolvency practitioners should therefore be allowed to access information held in the bank account registries only indirectly by requesting the designated courts in their Member State to access and run the searches.	(16) In order to respect the right to the protection of personal data and the right to privacy, direct and immediate access to bank account ~~*registries*~~***registers*** should be granted ~~*only*~~ to courts ~~*with jurisdiction in insolvency proceedings*~~***or administrative authorities*** that are designated by the Member States for that purpose. Insolvency practitioners should therefore be allowed to access information held in the bank account ~~*registries only*~~***registers*** indirectly by requesting the designated courts ***or administrative authorities*** in their Member State to access ***the bank***	(16) In order to respect the right to the protection of personal data and the right to privacy, direct and immediate access to bank account ~~registries~~**registers** should be granted ~~only~~ to courts ~~with jurisdiction in insolvency proceedings~~**or to administrative authorities** that are designated by the Member States for that purpose. Insolvency practitioners should therefore be allowed to access information held in the bank account ~~registries only~~**registers** indirectly by requesting the designated courts **or authorities** in their Member State to access **the registers and**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		account registers and perform ~~***and run***~~ the searches. ***Member States should be able to designate different courts or administrative authorities for the purpose of accessing bank account registers domestically or across borders through the bank account registers interconnection system (BARIS) referred to in Directive (EU) 2024/1640 of the European Parliament and of the Council[1a]. Member States should be also able to provide that courts or authorities other than the courts or administrative authorities designated under this Directive verify the conditions for accessing and searching bank account information. Access to bank account information should be granted only on a case-by-case basis, where relevant to 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 that allow insolvency practitioners to access***	**perform**~~**and run**~~ the searches. **Member States should be able to designate different courts or authorities for the purposes of accessing national bank account registers or electronic data retrieval systems domestically or cross-border through the bank account registers interconnection system (BARIS). Member States should be also able to provide that the conditions for access and search of bank account information should be verified by courts or authorities other than the designated courts or authorities under this Directive. Access to information should be granted only on a case-by-case basis, where relevant to 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 may, in line with the minimum harmonisation nature of this Directive, adopt or maintain national rules that provide for direct access and**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		and search their bank account registers.	**search for insolvency practitioners in their national bank account registers and electronic data retrieval systems, with or without judicial authorisation. Where such direct access and search is granted to insolvency practitioners, Member States should not designate courts or authorities for the purpose of access and search in their national bank account registers or electronic data retrieval systems.**	
Recital 17				
30	(17) Directive (EU) YYYY/XX of the European Parliament and of the Council[1] [OP: Directive which replaces Directive 2015/849] provides that the centralised automated mechanisms are interconnected via the bank account registers (BAR) single access point, to be developed and operated by the Commission. Considering the growing importance of insolvency cases with cross-border implications and the importance of relevant financial information for the purposes of maximising the	(17) Directive (EU) ~~*YYYY/XX*~~***2024/1640*** of the European Parliament and of the Council[1] ~~*[OP: Directive which replaces Directive 2015/849]*~~ provides that ~~*the*~~ centralised automated mechanisms***, such as central registers or central electronic data retrieval systems,*** are interconnected via ~~*the bank account registers (BAR) single access point,*~~***BARIS, which is*** to be developed and operated by the Commission. Considering the growing importance of insolvency cases with cross-border	(17) Directive (EU) ~~YYYY/XX~~**2024/1640** of the European Parliament and of the Council[1] ~~[OP: Directive which replaces Directive 2015/849]~~ provides that the centralised automated mechanisms**, such as central registers or central electronic data retrieval systems,** are interconnected via ~~the bank account registers (BAR) single access point~~**BARIS**, to be developed and operated by the Commission. Considering the growing importance of insolvency cases with cross-border	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	value of the insolvency estate in insolvency proceedings, the designated national courts having jurisdiction in insolvency matters should be able to directly access and search the centralised bank account registries of other Member States through the BAR single access point put in place pursuant to Directive (EU) YYYY/XX [OP: Directive which replaces Directive 2015/849]. _____ 1. OJ	implications and the importance of relevant financial information for the purposes of maximising the value of the insolvency estate in insolvency proceedings, the designated ~~*national*~~ courts ~~*having jurisdiction in insolvency matters*~~***or administrative authorities*** should be able to ~~*directly*~~ access and search the ~~*centralised*~~ bank account ~~*registries*~~***registers*** of other Member States ***directly*** through ~~*the BAR single access point put in place pursuant to Directive (EU) YYYY/XX [OP: Directive which replaces Directive 2015/849]*~~***BARIS***. _____ 1. OJ ***L, 2024/1640, 19.6.2024, ELI: http://data.europa.eu/eli/dir/2024/1640/oj.***	implications and the importance of relevant financial information for the purposes of maximising the value of the insolvency estate in insolvency proceedings, the designated ~~national~~ courts ~~having jurisdiction in insolvency matters~~ **or authorities** should be able to ~~directly~~ access and search the ~~centralised~~ bank account ~~registries~~**registers and electronic data retrieval systems** of other Member States **directly, through BARIS. Access by courts or authorities designated under this Directive to bank account information across borders** through the ~~BAR single~~**BARIS is based on the mutual trust among Member States derived from their respect of fundamental rights and of the principles recognised by Article 6 of the Treaty on European Union (TEU) and by the Charter of Fundamental Rights of the European Union ('the Charter'), as well as the fundamental rights and principles provided for in international law and international agreements to which the Union or all the**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and in Member States' constitutions, in their respective fields of application. The power to access ~~point put in place pursuant to Directive (EU) YYYY/XX [OP: Directive which replaces~~**and search bank account information through the BARIS in this** Directive ~~2015/849]~~**should be exercised in compliance with Union and national rules, as well as national procedural safeguards on the protection of personal data**. _____ 1. OJ	
Recital 17a				
30a		***(17a) Access by the courts or administrative authorities designated under this Directive to bank account information across borders through BARIS is based on the mutual trust among Member States derived from their respect of fundamental rights and of the principles recognised by***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		Article 6 of the Treaty on European Union (TEU) and by the Charter of Fundamental Rights of the European Union (the 'Charter'), as well as the fundamental rights and principles provided for in international law and international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and in Member States' constitutions, in their respective fields of application. The power to access and search bank account information through BARIS pursuant to this Directive should be exercised in compliance with Union and national rules, as well as national procedural safeguards on the protection of personal data.		
Recital 18				
31	(18) Any personal data obtained under this Directive should only be processed in accordance with the applicable data protection rules by designated courts and insolvency practitioners	(18) Any personal data obtained under this Directive should only be processed in accordance with the applicable data protection rules by designated courts and insolvency practitioners	(18) Any personal data obtained under this Directive should ~~only~~ be processed **only** in accordance with the applicable data protection rules by designated courts **or authorities** and	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	where it is necessary and proportionate for the purposes of identifying and tracing assets belonging to the insolvency estate of the debtor in on-going insolvency proceedings.	where it is necessary and proportionate for the purposes of identifying and tracing assets belonging to the insolvency estate of the debtor in on-going insolvency proceedings.	insolvency practitioners **and** where it is necessary and proportionate for the purposes of identifying and tracing assets belonging to the insolvency estate ~~of the debtor~~ in on-going insolvency proceedings.	
Recital 19				
32	(19) Directive (EU) 2015/849 of the European Parliament and the Council[1] ensures that persons who are able to demonstrate a legitimate interest are granted access to beneficial ownership information on trusts and other types of legal arrangements, in accordance with data protection rules. Those persons are granted access to information on the name, month and year of birth and the country of residence and nationality of the beneficial owner, as well as the nature and extent of beneficial interest held. It is essential that insolvency practitioners can quickly and easily access that set of information for performing their tasks to trace assets in the context of ongoing insolvency proceedings. It is therefore	(19) Directive (EU) ~~*2015/849 of the European Parliament and the Council*~~[1] ***2024/1640*** ensures that persons ~~*who are able to demonstrate*~~***with*** a legitimate interest are granted access to beneficial ownership information ~~*on trusts and other types of legal arrangements*~~, in accordance with data protection rules. ~~*Those persons are*~~***For the purpose of tracing assets in the context of ongoing insolvency proceedings, insolvency practitioners should be*** granted access ***in a timely manner to specific categories of beneficial ownership*** ~~*to*~~ information***, such as*** on the name, month and year of birth and the country of residence and nationality of the beneficial owner, as well as the nature and extent of beneficial interest held. ~~*It is essential that insolvency*~~	(19) Directive (EU) ~~2015/849 of the European Parliament and the Council~~**2024/1640**[1] ensures that persons ~~who are able to demonstrate a~~**with** legitimate interest are granted access to beneficial ownership information ~~on trusts and other types of legal arrangements~~, in accordance with data protection rules. ~~Those persons are granted access to information on the name, month and year of birth and the country of residence and nationality of the beneficial owner, as well as the nature and extent of beneficial interest held. It is essential that insolvency practitioners can quickly and easily access that set of information for performing their tasks to trace~~ **For the purpose of tracing** assets in the context of ongoing insolvency proceedings. ~~It~~	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	necessary to clarify that in such a case access by insolvency practitioners constitutes a legitimate interest. At the same time, the scope of data directly accessible by the insolvency practitioners should not be broader than the scope of data accessible by other parties having a legitimate interest. _____ 1. Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141 5.6.2015, p. 73).	~~*practitioners can quickly and easily access that set of information for performing their tasks to trace assets in the context of ongoing insolvency proceedings. It is therefore necessary to clarify that in such a case access by insolvency practitioners constitutes a legitimate interest.*~~ At the same time, the scope of data directly accessible by the insolvency practitioners ~~*should not*~~***could*** be broader than the scope of data accessible by other parties having a legitimate interest. _____ ~~*1. Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive*~~	~~is therefore necessary to clarify that in such a case access by insolvency practitioners constitutes a legitimate interest. At the same time, the scope of data directly accessible by the~~ insolvency practitioners should ~~not be broader than the scope of data accessible by other parties having a legitimate interest.~~**be granted access in a timely manner to specific categories of beneficial ownership information held in the interconnected central beneficial ownership registers.** _____ 1. Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141 5.6.2015, p. 73)~~.~~	

Public

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		~~2006/70/EC (OJ L 141 5.6.2015, p. 73).~~		
Recital 20				
33	(20) To ensure that assets can be efficiently traced in the context of cross-border insolvency proceedings, insolvency practitioners appointed in a Member State should be granted expeditious access to asset registers also when these registers are located in a different Member State. Therefore, the access conditions applying to foreign insolvency practitioners should not be more cumbersome than those applying to domestic insolvency practitioners.	(20) To ensure that assets can be efficiently traced in the context of cross-border insolvency proceedings, insolvency practitioners appointed in a Member State should be granted expeditious access to ~~asset~~***national*** registers ~~also~~***and databases, even*** when these registers ***and databases*** are located in a ~~different~~ Member State ***other than that in which the insolvency practitioner was appointed. Access should be provided without the involvement of any intermediary court or authority, allowing insolvency practitioners to communicate directly with the entities operating or maintaining the national registers or databases concerned. Member States should provide that insolvency practitioners can directly search datasets contained in such registers or databases***. Therefore, the access conditions applying to foreign insolvency practitioners should not be more	(20) To ensure that assets can be **traced** efficiently ~~traced~~ in the context of cross-border insolvency proceedings, insolvency practitioners ~~appointed in a Member State~~ should be granted expeditious access to ~~asset~~**national** registers ~~also when these~~**and databases, even if those** registers are located in a ~~different~~ Member State **other than that in which the insolvency practitioner was appointed. Access should be provided without the involvement of any intermediary court or authority**. ~~Therefore~~, **allowing insolvency practitioners to communicate directly with the entities operating or maintaining the national registers or databases concerned. In line with the minimum harmonization nature of this Directive, Member States should be able to provide for insolvency practitioners direct search in the datasets contained by such registers or databases.**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		cumbersome than those applying to domestic insolvency practitioners. ***Therefore, the Member States should ensure that access to national registers and databases is not denied solely on the basis that the applicant is an insolvency practitioner established in another Member State.***	The access conditions applying to foreign insolvency practitioners should not be more cumbersome than those applying to domestic insolvency practitioners**, thus Member States cannot apply different conditions solely on the basis that the applicant is a foreign insolvency practitioner**. **Procedural aspects of receiving and granting the requests submitted by domestic or foreign insolvency practitioners, such as language of the procedure or the verification of conditions of access, should be governed by the law of the Member State where the registers and databases are held.**	
Recital 20a				
33a			**(20a) In order to establish an effective and consistent system for the enforcement of debts against the assets of debtors, it is essential to prevent debtors from concealing their assets, including through the acquisition of financial instruments, such as securities. The differences between national settlement systems, as well as the varying**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			types and characteristics of financial instruments, can give rise to difficulties accessing records and in identifying the ultimate beneficial owner of a financial instrument. Therefore, irrespective of the kind of existing register, database or other source of information a Member State uses, it is necessary for Member States to have in place the framework to facilitate the tracing and identification of the owners of financial instruments by making those national registers and databases accessible upon request under this Directive.	
Recital 20a				
33b		***(20a) In order to establish an effective and consistent system for the enforcement of debts against the assets of debtors, it is essential to prevent debtors from concealing their assets, including through the acquisition of financial instruments, such as securities. The differences between national settlement systems, as well as the varying types and characteristics of***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		financial instruments, can give rise to difficulties in accessing records and in identifying the ultimate beneficial owner of a financial instrument. Therefore, irrespective of the kind of existing register, database or other source of information a Member State uses, it is necessary for Member States to have in place the framework to facilitate the tracing and identification of the owners of financial instruments by making those national registers and databases accessible upon request under this Directive.		
Recital 21				
34	(21) In the context of insolvent liquidation, national insolvency laws should allow for the realisation of the assets of the business to occur through the sale of the business or part thereof as a going concern. Sale as a going concern should mean, in this context, the transfer of the business, in whole or in part, to an acquirer in a way that the business (or part thereof) may continue to operate as an economically productive unit. Sale as a going	(21) In the context of insolvent liquidation, national insolvency laws should allow for the realisation of the assets of the business to occur through the sale of the business or part thereof as a going concern. Sale as a going concern should mean, in this context, the transfer of the business, in whole or in part, to an acquirer in a way that the business (or part thereof) may continue to operate as an economically productive unit. Sale as a going	(21) In the context of insolvent liquidation, national insolvency laws should allow for the realisation of the assets of ~~the~~**a** business to occur through the sale of the business or part thereof as a going concern. **'**Sale as a going concern**'** should **be understood to** mean, ~~in this context~~**for the purpose of this Directive**, the transfer of ~~the~~**a** business, in whole or in part, to an acquirer in **such** a way that ~~the~~**that** business**,** ~~(~~or **a sufficiently significant** part	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	concern should be understood as opposed to a sale of the assets of the business piece by piece (piecemeal liquidation).	concern should be understood as opposed to a sale of the assets of the business piece by piece (piecemeal liquidation).	thereof~~) may~~, **can** continue to operate as an economically productive unit~~. Sale as a going concern~~ **and** should **not** be understood ~~as opposed to a~~**to include the** sale of the assets of the business piece by piece (piecemeal liquidation).	
Recital 22				
35	(22) It is generally assumed that more value can be recovered in liquidation by selling the business (or part thereof) as a going concern rather than by piecemeal liquidation. 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, so that the assets can be quickly realised shortly after the opening of the formal insolvency proceedings. The pre-pack proceedings should consist of two phases, namely a	(22) It is generally assumed that more value can be recovered in liquidation by selling the business (or part thereof) as a going concern rather than by piecemeal liquidation. 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, so that the assets can be quickly realised shortly after the opening of the formal insolvency proceedings. ***In order to guarantee that the sale process is prepared in a fair way, the monitor should be***	(22) It is generally assumed that more value can be recovered in liquidation by selling ~~the~~**a** business**,** ~~(~~or part thereof~~),~~ as a going concern rather than by piecemeal liquidation. In order to promote ~~going-concern~~ sales ~~in liquidation~~**of a going concern**, national insolvency regimes should ~~include a pre-pack proceeding, where the~~**provide for a mechanism by means of which a** debtor in financial distress, with the help **or under the supervision** of a ~~"~~monitor~~", seeks possible~~**, can seek** interested acquirers and ~~prepares~~**prepare** the sale of ~~the~~**a** business as a going concern **('pre-pack mechanism')** before the formal opening of insolvency proceedings~~, so that the~~**. The remaining** assets **of that business**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	preparation phase and a liquidation phase.	***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.*** The pre-pack proceedings should consist of two phases, namely a preparation phase and a liquidation phase. ***Those phases should respect the principles applicable to judicial proceedings in each Member State.***	**can therefore**~~can~~ be quickly realised shortly after the **formal** opening of the ~~formal~~ insolvency proceedings. **This Directive should lay down minimum standards for a pre-pack mechanism while allowing for sufficient flexibility of implementation by Members States adapting those standards in existing national insolvency law.** The pre-pack ~~proceedings~~**mechanism** should consist of two phases, namely a preparation phase and a liquidation phase. **The preparation phase should aim at finding an appropriate buyer for the debtor's business or part thereof and should be confidential at least as far as the efforts to find an appropriate buyer are concerned. The liquidation phase should aim at approving and executing the sale of the debtor's business or part thereof and at distributing the proceeds to the creditors, in accordance with national law. The liquidation phase should begin with a decision of a judicial body or any other competent body to**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			formally open insolvency proceedings under national law leading to the winding-up of the debtor. It is not precluded that the debtor may continue its business activity after the termination of the liquidation phase with the remaining part of the economic activity. The liquidation phase should be carried out by means of insolvency proceedings other than preventive restructuring procedures. In Member States where Regulation (EU) 2015/848 of the European Parliament and of the Council[1] applies, the liquidation phase should be carried out by means of the insolvency proceedings that are included in Annex A other than preventive restructuring proceedings. **_____** **1. 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).**	
Recital 22a				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
35a			**(22a) The pre-pack mechanism should be without prejudice to employees' rights under Union and national law, including the involvement of employees' representatives. Specifically, it should be governed by statutory or regulatory provisions and should be construed in a way where the transfer of all or part of an undertaking is prepared with the assistance of a monitor under the supervision of the court or competent authority, prior to the institution of formal insolvency proceedings that are instituted with a view to the liquidation of the assets of the debtor. While the primary aim of the pre-pack mechanism is to enable, in the interests of creditors, in the insolvency proceedings, a liquidation of the debtor's assets by the transfer of all or part of the undertaking as a going concern which satisfies to the greatest extent possible the claims of all the creditors, it can also serve employment preservation. Consequently, when it takes place in**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			proceedings which could end in the liquidation of the debtor, the liquidation phase of the pre-pack mechanism in this Directive is an eligible procedure for the purposes of article 5(1) of Council Directive 2001/23/EC[1]. _____ **1. Council Directive2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ L 82, 22.3.2001, p. 16).**	
Recital 22a				
35b		***(22a) The introduction of pre-pack proceedings should not lead to restrictions in the scope of action of insolvency practitioners in the context of regular insolvency proceedings. Such insolvency practitioners should continue to be authorised to seek a sale of the business.***		
Recital 22b				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
35c			**(22b) The pre-pack mechanism does not replace national substantive rules, in particular, on the ranking of creditors' claims, the distribution of proceeds, the participation of creditors or the remuneration of the monitor and insolvency practitioner. In the event that a court or competent authority does not authorise the sale of a business, or part thereof, as proposed by the monitor, insolvency proceedings should proceed in accordance with the applicable national insolvency law. The opening of the liquidation phase is subject to the requirements for the opening of insolvency proceedings under national law, such as the presence of a ground for the opening of proceedings.**	
Recital 22c				
35d			**(22c) The pre-pack mechanism set out in this Directive should be applied to debtors that are legal persons. Member States may extend the application of the pre-pack**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			mechanism to natural persons who are entrepreneurs.	
Recital 23				
36	(23) For the effective management of the pre-pack proceedings, the court before which such proceedings are brought should also have the power to decide on issues closely related to the pre-pack sale of the business or part thereof.	(23) For the effective management of the pre-pack proceedings, the court before which such proceedings are brought should also have the power to decide on issues closely related to the pre-pack sale of the business or part thereof.	*deleted*	
Recital 24				
37	*(24)* The pre-pack proceedings should ensure that the monitor appointed in the preparation phase might propose the best bid obtained during the sale process for authorisation by the court only if it declares that, in its view, piecemeal liquidation would not recover manifestly more value for creditors than the market price obtained for the business (or part thereof) as a going concern. The going-concern value is, as a rule, higher than the piecemeal liquidation value because it is based on the assumption that the business continues its activity with the minimum of disruption, has the confidence of financial creditors,	(24) The pre-pack proceedings should ensure that the monitor ~~*appointed in the preparation phase might propose*~~***submits for authorisation to the court or competent authority*** the best bid obtained during the ~~*sale process for authorisation by the court only if it declares that, in its view,*~~***preparation phase. It should be possible to require the monitor to assess and state whether the*** piecemeal liquidation would not recover manifestly more value for creditors than the market price obtained ~~*for*~~***through the sale of*** the business (or part thereof) as a going concern. The going-concern value is, as a rule, higher than the	(24) The pre-pack ~~proceedings~~**mechanism** should ensure that the ~~monitor appointed in~~**best bid received during** the preparation phase ~~might propose the best bid obtained during the sale process~~**is either submitted to the court or competent authority** for authorisation**, or to the creditors for approval. The monitor should assess and state whether the** ~~by the court only if it declares that, in its view,~~ piecemeal liquidation would ~~not~~ recover manifestly more value for creditors than the market price obtained ~~for~~**through the sale of** the business**,** ~~(~~or part thereof~~)~~**,** as a going concern. The going-concern	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	shareholders and clients and continues to generate revenues. Therefore, the monitor's declaration should not require a valuation being made in every case. The monitor should only reasonably conclude that the sale price is not significantly lower than the proceeds that could be recovered through a piecemeal liquidation. However, an increased scrutiny should be required from the monitor or the insolvency practitioner in cases where the only existing offer is made by a party who is closely related to the debtor. In such situations, the monitor or the insolvency practitioner should reject the offer if it does not satisfy the best-interest-of-creditors test.	piecemeal liquidation value because it is based on the assumption that the business continues its activity with the minimum of disruption, has the confidence of financial creditors, shareholders and clients and continues to generate revenues. Therefore, the monitor's declaration should not require a valuation being made in every case. ***National law might require*** the monitor ~~*should only reasonably conclude that the sale*~~***to take into account elements other than*** price ~~*is not significantly lower than the proceeds that could be recovered through a piecemeal liquidation*~~***, including the public interest or ensuring the viability of a business***. However, an increased scrutiny should be required from the monitor or the insolvency practitioner in cases where the only existing offer is made by a party who is closely related to the debtor. In such situations, ***a valuation should be required and*** the monitor or the insolvency practitioner should reject the offer	value ~~is, as a rule,~~**of a business may be reasonably expected to be** higher than ~~the~~**its** piecemeal liquidation value because it is based on the assumption that the business ~~continues~~**will continue** its activity with the minimum of disruption, ~~has~~**maintain** the confidence of financial creditors, shareholders and clients and ~~continues~~**continue** to generate ~~revenues~~**revenue**. ~~Therefore, the monitor's declaration should not require a valuation being made in every case.~~ **No undue burden is to be put on** the monitor **and the process and, in particular, a full-fledged valuation** should ~~only reasonably conclude that the sale price is not significantly lower than the proceeds that could be recovered through a piecemeal liquidation~~**not be required in the preparatory phase of the process, unless the prospective buyer is a party closely related to the debtor. National law may require the monitor to take into account elements other than price, including the public interest or ensuring the viability of a business**. However, ~~an~~**a**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		if it does not satisfy the best-interest-of-creditors test.	**requirement to impose** increased scrutiny should ~~be required from~~**apply where the assessment of** the monitor or the insolvency practitioner ~~in cases~~**involves a case** where the ~~only existing~~ offer **that is considered the best** is made by a party who is closely related to the debtor. ~~In such situations,~~**Member States can require** the monitor ~~or the~~**to justify that the bid identified as best offer does not put the creditors in a situation worse than that they would be under an alternative mechanism of addressing the debtor's** insolvency**. The monitor** ~~practitioner~~ should ~~reject the~~**document the preparation of the sales process, so as to provide an appropriate basis for the authorization or approval of the best** offer ~~if it does not satisfy the best-interest-of-creditors test~~.	
Recital 24a				
37a			**(24a) Where it becomes evident in the course of the preparation phase that the objectives of the pre-pack cannot be achieved, Member**	

Public

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			States should be able to allow for the termination of the pre-pack proceedings. Such situations can occur where the debtor fails to cooperate with the monitor or to conduct the preparation phase with due diligence, or where there is no reasonable prospect of selling the business as a going concern. The latter could be the case, for example, where the books and records of the debtor are incomplete or deficient to a degree that makes it impossible to ascertain its business and financial situation. Furthermore, whenever it is required that the sale process conducted during the preparation phase is competitive, transparent, fair, and meets market standard, acts of the debtor that are not compliant with those requirements can be viewed as a failure to proceed with due diligence. Nevertheless, Member States may provide that, even if the debtor fails to cooperate with the monitor or to conduct the preparation phase with due diligence, where the continuation of the preparatory	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			phase is in the general interest of the creditors, the court or competent authority may limit the debtor's rights to administer its business in accordance with applicable insolvency law, with a view to finalising the pre-pack mechanism.	
Recital 25				
38	(25) In order to guarantee that the business is sold at the best market value during the pre-pack proceedings, Member States should either ensure high standards of competitiveness, transparency and fairness of the sale process conducted in the preparation phase, or provide that the court runs a brief public auction after the opening of the liquidation phase of the proceedings.	(25) In order to guarantee that the business is sold at the best market value during the pre-pack proceedings, Member States should ~~*either*~~ ensure high standards of competitiveness, transparency and fairness of the sale process conducted in the preparation phase~~*, or provide that*~~. The court ~~*runs*~~***should be able to decide to run*** a brief public auction after the opening of the liquidation phase of the proceedings ***if there are credible suspicions of abuse in the preparatory phase***.	(25) In order to ~~guarantee that the~~**ensure that a** business is sold ~~at~~**for** the best ~~market value during~~**price through** the pre-pack ~~proceedings~~**mechanism**, Member States should ~~either~~ ensure **that the sale process in the preparation phase is conducted under** high standards of competitiveness, transparency and fairness ~~of the sale process conducted in the preparation phase, or~~**. Alternatively, Member States may** provide that ~~the court runs a brief public auction~~**,** after the opening of the liquidation phase **or the presentation** of the ~~proceedings~~**recommended best bidder, a public auction is run to select the best bid or the bid recommended by the monitor is approved by the creditors**. **It is**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			for Member States to decide whether the approval of the creditors is given by the general meeting of creditors or creditors committee.	
Recital 25a				
38a			**(25a) It is not precluded for the Member States to provide that a court or a competent authority that established that the sale process is not competitive, transparent, fair, and does not meet market standards can decide to proceed with a public auction, or piecemeal liquidation of debtor's assets in insolvency proceeding commenced within the pre-pack mechanism.**	
Recital 25a				
38b		***(25a) In order to give full effect to the objective of insolvency proceedings, namely the collective realisation of claims against the debtor, it is necessary that all creditors holding claims against the insolvent debtor participate in the proceedings. By so participating, it should be possible for such claims to be duly recorded, examined and***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		satisfied in accordance with the applicable insolvency framework.		
Recital 25b				
38c			**(25b) In insolvency systems that are based on the principle of creditor autonomy, Member States should be able to provide that it is for the general meeting of creditors or the creditors' committee to authorise the sale of the debtor's business or part thereof in accordance with national law.**	
Recital 26				
39	(26) If a Member State opts to require high standards in the preparation phase, the monitor (subsequently to be appointed as insolvency practitioner in the liquidation phase) should be responsible for ensuring that the sale process is competitive, transparent, fair and meets market standards. Complying with market standards in this context should require that the process is compatible with the standard rules and practice on mergers and acquisitions in the Member State concerned, which includes an invitation to potentially interested	(26) ~~*If a Member State opts to require high standards*~~ In the preparation phase, the monitor (subsequently to be appointed as insolvency practitioner in the liquidation phase***, unless the monitor resigns or is unable to perform the required functions***) should be responsible for ensuring that the sale process is competitive, transparent, fair and meets market standards. Complying with market standards in this context should require that the process is compatible with the standard rules and practice on mergers and acquisitions in the	(26) If a Member State opts to require high standards in the preparation phase, the monitor**, or, where and to the extent that Member States so decide, the debtor-in-possession,** ~~(subsequently to be appointed as insolvency practitioner in the liquidation phase)~~ should be responsible for ensuring that the sale process is competitive, transparent, fair and meets market standards. Complying with market standards in this context should require that the process is compatible with ~~the~~ standard rules and practice on mergers and	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	parties to participate in the sale process, disclosing the same information to potential buyers, enabling the exercise of due diligence by interested acquirers, and obtaining the offers from the interested parties through a structured process.	Member State concerned, which includes an invitation to potentially interested parties to participate in the sale process, disclosing the same information to potential buyers, enabling the exercise of due diligence by interested acquirers, and obtaining the offers from the interested parties through a structured process.	acquisitions in the Member State concerned, ~~which includes~~**and include** an invitation to potentially interested parties to participate in the sale process, disclosing the same information to potential buyers, enabling the exercise of due diligence by interested acquirers, and obtaining the offers from the interested parties through a structured process.	
Recital 27				
40	(27) If a Member State opts to provide that the court runs a public auction after the opening of the liquidation phase, the offer selected by the monitor during the preparation phase should be used as an initial bid ('stalking horse bid') during the auction. The debtor should be able to offer incentives to the 'stalking horse bidder' by agreeing, in particular, to expense reimbursements or break-up fees in the case a better offer is selected through the public auction. Member States should, nevertheless, ensure that such incentives given by the debtors to the 'stalking horse bidders' during the preparation phase are	(27) If ~~*a Member State opts to provide that*~~ the court ***or the administrative authority*** runs a public auction after the opening of the liquidation phase, the offer selected by the monitor during the preparation phase should be used as an initial bid ('stalking horse bid') during the auction. The debtor should be able to offer incentives to the 'stalking horse bidder' by agreeing, in particular, to expense reimbursements or break-up fees in the case a better offer is selected through the public auction. Member States should, nevertheless, ensure that such incentives given by the debtors to the 'stalking horse bidders' during	(27) If a Member State opts to ~~provide that the court runs~~**require that** a public auction **is run prior to or** after the opening of the liquidation phase, the offer selected by the monitor during the preparation phase should be used as an initial bid ('stalking horse bid') ~~during~~**for the purposes of** the auction. The debtor should be able to offer incentives to the 'stalking horse bidder' by agreeing, in particular, to expense reimbursements or break-up fees in the case a better offer is selected through the public auction. Member States should, nevertheless, ensure that such incentives given by the debtors to	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	commensurate and do not deter other potentially interested bidders from participating in the public auction in the liquidation phase.	the preparation phase are commensurate and do not deter other potentially interested bidders from participating in the public auction in the liquidation phase.	the 'stalking horse bidders' during the preparation phase are commensurate and do not deter other potentially interested bidders from participating in the public auction in the liquidation phase.	
Recital 27a				
40a		***(27a) Monitors should take their actions in writing and should make them available, in digital format and in a timely manner, only to the parties involved in the preparation phase in order to secure the necessary confidentiality of all information obtained in connection with the preparation phase.***		
Recital 28				
41	(28) The opening of insolvency proceedings should not result in the early termination of contracts under which the parties still have obligations to perform (executory contracts), which are necessary for the continuation of business operations. Such termination would unduly jeopardise the value of the business, or part thereof, to be sold in the pre-pack proceedings. It should, therefore, be ensured that those contracts are	(28) The opening of insolvency proceedings should not result in the early termination of contracts under which the parties still have obligations to perform (executory contracts), which are necessary for the continuation of business operations. Such termination would unduly jeopardise the value of the business, or part thereof, to be sold in the pre-pack proceedings. It should, therefore, be ensured that those contracts are	(28) **To prevent a business from depreciating its value merely because it is subject to insolvency proceedings, it is important to ensure that operational counterparties, such as suppliers or customers of the debtor concerned, are taken over by the acquirer and not affected by insolvency proceedings. Therefore,** the opening of insolvency proceedings should not result in the early	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	assigned to the acquirer of the business of the debtor or part thereof, even without the consent of the counterparty of the debtor to those contracts. Nonetheless, there are situations where the assignment of the executory contracts cannot be reasonably expected, such as when the acquirer is a competitor of the counterparty of the contract. Similarly, the court may come to the conclusion in an individual assessment of an executory contract that its termination would serve the interests of the business of the debtor better than its assignment, such as when the assignment of the contract would result in a disproportionate burden for the business. The court should not be allowed, however, to terminate executory contracts relating to licenses of intellectual and industrial property rights, as they are usually key components of the operations of the business being sold.	assigned to the acquirer of the business of the debtor or part thereof, even without the consent of the counterparty of the debtor to those contracts***, unless the court considers that consent is necessary to protect the interests of the debtor's counterparties***. Nonetheless, there are situations where the assignment of the executory contracts cannot be ~~*reasonably expected*~~***allowed***, such as when the acquirer is a competitor of the counterparty of the contract. Similarly, the court may come to the conclusion in an individual assessment of an executory contract that its termination would serve the interests of the business of the debtor better than its assignment, such as when the assignment of the contract would result in a disproportionate burden for the business. The court should not be allowed, however, to terminate executory contracts relating to licenses of intellectual and industrial property rights, as ***well as for credit or financial services contracts, as*** they are usually key	termination of contracts under which the parties still have **to perform certain** obligations ~~to perform (executory contracts),~~**and** which are necessary for the continuation of business operations. Such termination would unduly jeopardise the value of the business, or part thereof, to be sold ~~in~~**through** the pre-pack ~~proceedings~~**mechanism**. It should, therefore, be ensured that ~~those~~**such** contracts are assigned to the acquirer of the business of the debtor**,** or part thereof, even without the consent of the counterparty of the debtor to ~~those contracts. Nonetheless~~**them. Nevertheless**, there ~~are~~**can be** situations ~~where~~**in which** the assignment of ~~the executory~~**certain obligations under such** contracts cannot be reasonably expected**. Therefore, Member States should be able to provide that the consent**~~, such as when the acquirer is a competitor~~ of the **debtor's** counterparty ~~of the contract. Similarly, the court may come to the conclusion in an individual assessment of an executory~~**or counterparties is**	

Public

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		components of the operations of the business being sold.	**required for the assignment of contractual obligations, depending on the type of** contract ~~that its termination would serve the~~**, quality of the parties, or** interests of the business ~~of the debtor better than its assignment, such as when the assignment~~**concerned. Member States should be able to require the consent** of the ~~contract would result in a disproportionate burden for the business. The court should not be allowed, however,~~**licensee** to terminate ~~executory~~ contracts relating to licenses of intellectual and industrial property rights, ~~as they are usually key components~~ of **which the debtor is the licensor, as the protection of these rights in the case** ~~the operations~~ of the ~~business being sold~~**insolvency of the licensor endorses investing in the development of such rights**.	
Recital 28a				
41a			**(28a) Member States should also be able to introduce an additional safeguard for the protection of the counterparty's legitimate interests by granting**	

Public

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			the right to the counterparty to terminate the assigned contract upon a notice period of three months.	
Recital 28b				
41b			**(28b) The provisions of this Directive on the automatic assignment of contracts to the acquirer are without prejudice to the right of the counterparty to terminate the contract in accordance with its applicable terms, or the right of the counterparty to resort to the measures granted by the applicable contract law that aim at ensuring a compliant performance of the obligation of the debtor for cases of non or faulty performance, such as the counterparty's right to require a deposit or security interests or the right of retention of performance before or after the assignment.**	
Recital 28c				
41c			**(28c) In order to increase the attractiveness of asset deals for potential buyers and, thereby, to achieve higher prices in going-concern sales, Member States**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			should ensure that purchasers acquire businesses free and clear of debts and liabilities. Therefore, creditors' claims should be satisfied from the proceeds of sale and not asserted directly against the purchaser of a business. However, obligations arising from executory contracts or employment relations, for example any occupational benefit entitlements, which are transferred to the buyer remain with the acquirer. Additionally, Member States should be able to introduce or maintain rules providing that the conduct of the debtor is taken into account in the assessment of the acquirer's liability for damages, if that conduct is imputable to the acquirer under the applicable insolvency law. Such rules may apply to damages covered by environmental law or damages connected to the ownership or control of certain assets.	
Recital 28d				
41d			**(28d) The release of security interests or other encumbrances over assets belonging to the**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			debtor's business should be governed by national law. Where the law in a Member State requires the express consent of the holder of the security interests for the release of such interest, that Member States should be able to provide for a derogation from that requirement, provided that a holder of secured claims does not object to that release.	
Recital 28e				
41e			**(28e) The best offer should not be disqualified from the preparation phase solely on the basis that it comes from a closely related party to a debtor. Closely related parties to the debtor should, therefore, be allowed to make a bid and, where their bid is successful, to benefit from the "free and clear" acquisition of the business concerned. The eligibility of closely related parties to bid should, nevertheless, be balanced with enhanced scrutiny of the bidding process. Providing equal opportunities for other bidders, particularly in**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			relation to access to information and ensuring information symmetry, facilitates a quick and efficient pre-pack mechanism and allows other bidders to prepare their bids.	
Recital 28f				
41f			**(28f) Where the offer made by a party closely related to the debtor is considered as the best offer, Member States should be able to introduce additional safeguards for the authorisation and execution of the sale of the debtor's business or part thereof. Such safeguards can include, for example, the obligation for the acquirer to ensure business continuity for a minimum period of time, or the maintenance of pending employment contracts.**	
Recital 29				
42	(29) The possibility to enforce pre-emption rights in the course of the sale process would distort competition in the pre-pack proceedings. Potential bidders might abstain from bidding because of rights that would discard their offers at the holder's	(29) The possibility to enforce pre-emption rights in the course of the sale process would distort competition in the pre-pack proceedings***. That consideration cannot prevent a court from reserving a right of pre-emption for an undertaking participating***	(29) The possibility ~~to enforce~~**of enforcing** pre-emption rights in the course of ~~the~~**a** sale process would distort competition in the pre-pack ~~proceedings~~**mechanism**. Potential bidders might abstain from bidding ~~because of~~**where** rights	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	discretion, irrespective of the time and resources invested and the economic value of the offer. In order to ensure that the winning offer reflects the best available price on the market, pre-emption rights should not be conceded to bidders, nor should such rights be enforced in the course of the bidding process. Holders of pre-emption rights that were granted prior to the commencement of the pre-pack proceedings, instead of invoking their option, should be invited to participate in the bidding.	***in an essential strategic interest***. Potential bidders might abstain from bidding because of rights that would discard their offers at the holder's discretion, irrespective of the time and resources invested and the economic value of the offer. In order to ensure that the winning offer reflects the best available price on the market, pre-emption rights should not be conceded to bidders, nor should such rights be enforced in the course of the bidding process. Holders of pre-emption rights that were granted prior to the commencement of the pre-pack proceedings, instead of invoking their option, should be invited to participate in the bidding.	~~that would discard~~**holders could, at** their ~~offers at the holder's~~ discretion**, discard those bids**, irrespective of the time and resources invested and the economic value of the ~~offer~~**offers concerned**. In order to ensure that ~~the~~ winning ~~offer reflects~~**offers reflect** the best available ~~price~~**prices** on the market, pre-emption rights should not be conceded to bidders, nor should such rights be enforced in the course of the ~~bidding process~~**liquidation phase**. Holders of pre-emption rights that were granted prior to the commencement of the pre-pack ~~proceedings~~**mechanism should**, instead of invoking their option, ~~should~~ be invited to participate in the bidding. **Nevertheless, Member States should be able to enforce statutory pre-emption rights.**	
Recital 30				
43	(30) Member States should allow secured creditors to participate in the bidding process in the pre-pack proceedings by offering the amount of their	(30) Member States should allow secured creditors to participate in the bidding process in the pre-pack proceedings by offering the amount of their	(30) Member States should allow secured creditors to participate in the bidding process in the pre-pack ~~proceedings~~**mechanism** by	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	secured claims as consideration for the purchase of the assets over which they hold a security (credit bidding). Credit bidding should not, however, be used in a way that provides secured creditors with an undue advantage in the bidding process, such as when the amount of their secured claim against the debtor's assets is above the market value of the business.	secured claims as consideration for the purchase of the assets over which they hold a security (credit bidding). Credit bidding should not, however, be used in a way that provides secured creditors with an undue advantage in the bidding process, such as when the amount of their secured claim against the debtor's assets is above the market value of the business.	offering the amount of their secured claims as consideration for the purchase of the assets over which they hold a security (credit bidding). Credit bidding should not, however, be used in **such** a way ~~that provides~~**as to provide** secured creditors with an undue advantage in the bidding process, such as ~~when~~**where** the amount of their secured claim against ~~the~~**a** debtor's assets is above the market value of **that debtor's business. As such, a secured creditor should not be able to bid the whole amount of a claim against the debtor's business that is worth less than the amount of that claim, thereby deterring potential competitors from participating in the bidding process. Therefore, this Directive should restrict the amount that a creditor can bid in cases where there are undersecured or undercollateralised claims. In such cases, a secured creditor should only be allowed to bid an amount that is to be offset against the purchase price, without exceeding the market**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			value of the business. **The restriction on a creditor's ability to bid the value of a secured claim does not mean that that claim loses its security interest in respect of the portion of the claim that cannot be used in the bidding process.**	
Recital 31				
44	(31) This Directive should be without prejudice to the application of Union competition law, especially Council Regulation (EC) No 139/2004[1] nor should it prevent Member States from enforcing national merger control systems. When selecting the best offer, the monitor should be allowed to take into account the regulatory risks raised by offers requiring the authorisation of competition authorities and may consult with those authorities if allowed under applicable rules. It should remain the responsibility of the bidders to provide all necessary information to assess those risks and to engage in timely manner with competent competition authorities in order to mitigate those risks. In order to	(31) This Directive should be without prejudice to the application of Union competition law, especially Council Regulation (EC) No 139/2004[1] nor should it prevent Member States from enforcing national merger control systems. When selecting the best offer, the monitor should be allowed to take into account the regulatory risks raised by offers requiring the authorisation of competition authorities and may consult with those authorities if allowed under applicable rules. It should remain the responsibility of the bidders to provide all necessary information to assess those risks and to engage in timely manner with competent competition authorities in order to mitigate those risks. In order to	(31) This Directive should be without prejudice to the application of Union competition law, especially Council Regulation (EC) No 139/2004[1] nor should it prevent Member States from enforcing national merger control systems. When selecting the best offer, the monitor should be allowed to take into account the regulatory risks raised by offers requiring the authorisation of competition authorities and may consult with those authorities if allowed under applicable rules**. The disclosure of information by the competition authority should not be contrary to national rules on the protection of business secrets**. It should remain the responsibility of the bidders to provide all necessary information	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	increase the likelihood that procedures are successful, in presence of an offer that raises such risks, the monitor should be required to perform its role in a way that facilitates the presentation of alternative bids. _____ 1. Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 024 29.01.2004, p. 1)	increase the likelihood that procedures are successful, in presence of an offer that raises such risks, the monitor should be required to perform its role in a way that facilitates the presentation of alternative bids. _____ 1. Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 024 29.01.2004, p. 1)	to assess those risks and to engage in timely manner with competent competition authorities in order to mitigate those risks. In order to increase the likelihood that procedures are successful, in presence of an offer that raises such risks, the monitor **or the debtor** should be required to perform ~~its~~**their** role in a way that facilitates the presentation of alternative bids. _____ ~~1. Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 024 29.01.2004, p. 1)~~	
Recital 32				
45	(32) Directors oversee the management of the affairs of a legal entity and have the best overview of its financial situation. Directors are therefore among the first to realise whether a legal entity is approaching or surpassing the brink of insolvency. A late filing for insolvency by directors may lead to lower recovery values for creditors Member States	(32) Directors oversee the management of the affairs of a legal entity and have the best overview of its financial situation. Directors are therefore among the first to realise whether a legal entity is ~~*approaching or surpassing the brink of insolvency*~~***insolvent***. A late filing for insolvency by directors may lead to lower recovery values for	(32) Directors oversee the management of the affairs of a ~~legal entity~~**company** and have the best overview of its financial situation. Directors are therefore among the first to realise whether a ~~legal entity~~**company** is approaching ~~or surpassing the brink of~~ insolvency **or is insolvent**. A late filing for insolvency by directors may lead	Council to propose a new wording

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	should therefore introduce an obligation on directors to submit a request for the opening of insolvency proceedings within a specified time-period. Member States should also define to whom the directors' duties should apply taking into account that the notion of "director" should be interpreted broadly, to cover all persons who are in charge of making or do in fact make or ought to make key decisions with respect to the management of a legal entity.	creditors Member States should therefore introduce an obligation on directors to submit a request for the opening of insolvency proceedings within a specified time-period. Member States should also define ~~*to whom the directors' duties should apply taking into account that*~~ the notion of "director" ~~*should be interpreted broadly, to cover all persons who are in charge of making or do in fact make or ought to make key decisions with respect to the management of a legal entity*~~.	to lower recovery values for creditors**.** Member States should therefore introduce an obligation on directors to submit a request for the opening of insolvency proceedings within a specified ~~time-period~~**period**. **In the context of this duty Member States may define insolvency in a way that differs from the trigger for the opening of insolvency proceedings. Where a Member State has more than one insolvency threshold, it is for that Member State to determine which of those thresholds triggers the duty to submit a request for the opening of the insolvency proceedings. . For the purposes of this Directive,** Member States should also ~~define~~**provide for the persons** to whom the **duties of** directors~~'~~ ~~duties should~~ apply**,** taking into account **the variety of responsibilities that certain**~~that the notion of "director" should be interpreted broadly, to cover all~~ persons ~~who are in charge of making or do in fact make or ought to make key decisions~~**or bodies may have** with respect **to**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			decisions relating to the management of a ~~legal entity~~**the company**.	
Recital 32a				
45a			**(32a) Member States should set a deadline for the duty to submit a request for the opening of insolvency proceedings that is no longer than three months of the directors having become aware, or being reasonably expected to have become aware that the company is insolvent. If the company regains its solvency before that deadline, Member States should be able to provide that a new period starts if the company becomes insolvent again thereafter.**	
Recital 32a				
45b		***(32a) Member States should set a deadline for the duty to submit a request for the opening of insolvency proceedings. That deadline should be no later than three months from the date on which the directors became aware that the company was insolvent. If the company regains its solvency before that deadline, Member States should be able to***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		provide that a new period starts if the company becomes insolvent again thereafter.		
Recital 32b				
45c			**(32b) It is essential that when a company becomes insolvent, the protection of the general body of creditors is the primary responsibility of the directors. As such protection may be achieved in different ways, Member States should be able to provide that the duty to submit a request for the opening of insolvency proceedings can be discharged by informing the public of the company's insolvency through a notification in a public register in order to ensure that the creditors are able to apply for insolvency proceedings. Furthermore, Member States should also be able to suspend the duty of directors to submit a request for the opening of insolvency proceedings, if they take measures with a view to protecting the interests of the general body of creditors of the insolvent company, provided**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			that such measures ensure a level of protection to the general body of creditors which is equivalent to that provided by the duty to submit a request for the opening of insolvency proceedings. Those measures can include, for example initiating measures by the company's owners to restore solvency.	
Recital 33				
46	(33) To ensure that directors do not act in their self-interest by delaying the submission of a request for the opening of insolvency proceedings, despite signs of insolvency, Member States should lay down provisions making directors civilly liable for a breach of the duty to submit such a request. In that case directors should compensate creditors for the damages resulting from the deterioration in the recovery value of the legal entity compared to the situation where the request would have been submitted on time. Member States should be able to adopt or maintain national rules on civil liability of directors related to	(33) To ensure that directors do not act in their self-interest by delaying the submission of a request for the opening of insolvency proceedings, despite signs of insolvency, Member States should lay down provisions making directors civilly liable for a breach of the duty to submit such a request. In that case directors should compensate creditors for the damages resulting from the deterioration in the recovery value of the legal entity compared to the situation where the request would have been submitted on time. Member States should be able to adopt or maintain national rules on civil liability of directors related to	(33) To ensure that directors do not act ~~in their self-interest~~**against the interests of creditors** by delaying the submission of a request for the opening of insolvency proceedings, despite signs of insolvency, Member States should lay down provisions making directors civilly liable for a breach of the duty to submit such a request. In that case**,** directors should compensate creditors for ~~the damages~~**any damage** resulting from the deterioration in the recovery value of the ~~legal entity~~**company** compared to the situation where the request would have been submitted on time. **Unless this Directive provides**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	the filing for insolvency that are stricter than those laid down by this Directive.	the filing for insolvency that are stricter than those laid down by this Directive. ***In some cases, the signs of insolvency can be circumstantial and temporary and skilled directors should be given the opportunity to explore restructuring measures that could reasonably lead to the same outcome for creditors. Therefore, Member States should be permitted to provide for a derogation from the obligation to commence insolvency procedures while ensuring that the rights of the creditors are equally protected. Where there is no duty to request the opening of insolvency proceedings, Member States should be able to take other, equivalent measures, such as making directors personally liable.***	**for specific rules, all other aspects of civil liability, such as the calculation of damages or the burden of proof, should be governed by national law.** Member States should **also** be able to adopt or maintain national rules on civil liability of directors related to the filing for insolvency that are stricter than those laid down by this Directive.	
Recital 33a				
46a			**(33a) Where Member States allow directors to take measures to protect the interests of the general body of creditors, other than complying with the duty to submit a request for the opening of insolvency proceedings, they**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			should also lay down provisions that ensure that directors are liable for any damage caused to the creditors resulting from the deterioration in the recovery value of the company compared to the situation where a request for the opening of insolvency proceedings would have been submitted. In such a case, creditors should be put in a position as they would be, if the request to open insolvency proceedings would have been submitted by the directors within the deadline set by the Member States. It should be possible for Member States to provide that directors be relieved of such liability, if and to the extent that those directors are able to demonstrate, on the basis of objective circumstances and of information ascertainable at the time of the respective measures, that the measures taken gave rise to a reasonable expectation that damage to creditors would thereby be avoided and that a level of protection of the general body of creditors equivalent to the	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			protection provided by the duty to file for insolvency proceedings, would thereby be ensured. In such situations, national law on the discharge of the burden of proof should apply.	
Recital 33a				
46b		***(33a) In order to promote an efficient and inclusive insolvency framework that supports entrepreneurship and economic renewal, Member States should be able to maintain or introduce simplified winding-up proceedings for microenterprises, while upholding the high standards of transparency and fairness provided for in this Directive and under other relevant instruments. Given the limited resources typically available to such businesses, it is essential that the Member States ensure that those proceedings are accessible even in cases where the debtor has no assets or where the available assets are insufficient to cover the procedural costs or the cost for the involvement of an insolvency practitioner. Such an***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		approach would help avoid situations where honest but insolvent entrepreneurs are trapped in inactivity due to inaccessible formal procedures, thereby enabling a fresh start and contributing to a fairer and more resilient internal market.		
Recital 34				
G	47 (34) Microenterprises often take the form of sole proprietorships or small partnerships whose founders, owners or members do not enjoy limited liability protection and thus are exposed to unlimited liability for business debts. Where microenterprises operate as limited liability entities, limited liability protection is usually illusory for microenterprises owners because they are often expected to secure microenterprises business debts using their personal assets as collateral. Moreover, since microenterprises heavily depend on payments from their clients they often face cash-flow problems and higher default risks that follow from the loss of a significant business partner or	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	from late payments by their clients. In addition, microenterprises also face scarcity of working capital, higher interest rates and larger collateral requirements, which make raising finance, especially in situations of financial distress, difficult, if not impossible. As a consequence, they may be prone to insolvency more often than larger enterprises.			
Recital 35				
G *48*	*(35)* National insolvency rules are not always fit to treat insolvent microenterprises properly and in a proportionate manner. Taking into account the unique characteristics of microenterprises and their specific needs in financial distress, in particular the need for faster, simpler, and affordable procedures should be acknowledged, separate insolvency proceedings should be developed at national level in accordance with the provisions of this Directive. Although the provisions of this Directive concerning simplified winding-up proceedings only apply to microenterprises, it should be possible for Member States to	*deleted*	*deleted*	*deleted* G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	extend their application also to small and medium-sized enterprises that are not microenterprises.			
Recital 36				
G *49*	*(36)* It is appropriate to ensure that the conduct and oversight of simplified winding-up proceedings may be entrusted by Member States to a competent authority which is either a court or an administrative body. The choice would depend, among other things, on the administrative and legal systems of the Member States as well as the capacities of courts and the need to ensure cost-efficiency and speed of proceedings.	*deleted*	*deleted*	*deleted* G
Recital 37				
G *50*	*(37)* The cessation of payments test and the balance sheet test are the two usual triggers among Member States for opening of standard insolvency proceedings. The balance sheet test may however be unfeasible for microenterprise debtors, particularly where the debtor is an individual entrepreneur, because of a possible lack of proper record	*deleted*	*deleted*	*deleted* G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	and of a clear distinction between personal assets and liabilities and business assets and liabilities. Therefore, the inability to pay debts as they mature should be the criterion for the opening of simplified winding-up proceedings. Member States should also define the specific conditions under which this criterion is met, as long as these conditions are clear, simple and easily ascertainable by the microenterprise concerned.			
Recital 38				
G	*51*	*(38)* In order to establish cost-effective and expeditious simplified winding-up proceedings for microenterprises, short deadlines should be introduced. Similarly, formalities for all procedural steps, including for the opening of the proceedings, the lodgement and the admission of claims, the establishment of the insolvency estate and the realisation of the assets should be minimised. A standard form should be used for submitting a request to open simplified winding-up proceedings and	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	electronic means should be used for all communications between the competent authority, and where relevant, the insolvency practitioner, and the parties to the proceedings.			
Recital 39				
G 52	*(39)* All microenterprises should be able to commence proceedings to address their financial difficulties and obtain a discharge. Access to simplified winding-up proceedings should not depend on the microenterprise's ability to cover the administrative costs of such proceedings. The laws of the Member States should introduce rules for covering the costs of administering simplified winding-up proceedings where assets and sources of revenue of the debtor are insufficient to cover those costs.	*deleted*	*deleted*	*deleted* G
Recital 40				
G 53	*(40)* In simplified winding-up proceedings, the appointment of an insolvency practitioner is usually unnecessary given the simple business operations carried out by the microenterprises that	*deleted*	*deleted*	*deleted* G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	make their supervision by the competent authority possible and sufficient. Therefore, the debtor should remain in control of its assets and day-to-day operation of the business. At the same time, to ensure that simplified winding-up proceedings can be conducted effectively and efficiently, the debtor should, upon commencement of and throughout the proceedings, provide accurate, reliable and complete information relating to its financial position and business affairs.			
Recital 41				
G	*54*	*(41)* A microenterprise debtor should be able to benefit from a temporary stay of individual enforcement actions, in order to be able to preserve the value of the insolvency estate and ensure a fair and orderly conduct of the proceedings. Member States, however, may allow competent authorities to exclude certain claims from the scope of the stay, in well-defined circumstances.	*deleted*	*deleted*	*deleted*
Recital 42				
G	*55*	*(42)* Disputed claims should be dealt with in a way that does not	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	unnecessarily complicate the conduct of simplified winding-up proceedings for microenterprises. If disputed claims cannot be quickly dealt with, the ability to dispute a claim may be used to create unnecessary delays. In deciding on the treatment of a disputed claim, the competent authority should be empowered to allow the continuation of the simplified winding-up proceedings with respect to undisputed claims only.			
Recital 43				
G	*56*	*(43)* In the context of simplified winding-up proceedings, avoidance actions should only be brought by a creditor or, where appointed, by the insolvency practitioner. In taking the decision to convert the simplified winding-up proceedings to standard insolvency proceedings for the purpose of the conduct of avoidance proceedings, the competent authority should weigh various considerations, including the anticipated cost, duration and complexity of avoidance proceedings, the	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	likelihood of the successful recovery of assets and expected benefits to all creditors.			
Recital 44				
G *57*	*(44)* Member States should ensure that the assets of the insolvency estate in simplified winding-up proceedings can be realised through public on-line judicial auction, if the competent authority considers this means of realisation of assets as appropriate. For this reason, Member States should ensure that one or more electronic auction systems are maintained in their territory for that purposes. This obligation should be without prejudice to the multiple platforms that exist in some Member States for on-line judicial auctions of specific types of assets.	*deleted*	*deleted*	*deleted* G
Recital 45				
G *58*	*(45)* The auction systems operated for the purposes of realising the assets of debtors in simplified winding-up proceedings should be interconnected via the European e-Justice Portal. The e-Justice Portal should serve as a central electronic access point to	*deleted*	*deleted*	*deleted* G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	the on-line judicial auction processes run in the national system or systems, provide a search functionality for users and guide them to the relevant national on-line platforms if they intend to participate in the bidding. When determining the technical specifications of that interconnection system by way of implementing act, the Commission should, in accordance with the Commission's "Dual Pillar Approach"[1], present the result of the analysis of existing solutions already provided by the Commission with the potential for their reuse or should carry out a market screening for potential off-the shelf commercial solutions to use as such or with little customisation. _____ 1. For digital solutions, the dual pillar approach is about reusing existing solutions, including corporate building blocks, before considering ready-made market solutions. Customised development is the last option. See European Commission digital strategy Next generation			

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	digital Commission, C(2022) 4388 final, p. 13.			
Recital 46				
G *59*	*(46)* In the case of insolvency of an unlimited liability microenterprise debtor, individuals who are personally liable for the debtor's debts should not be personally liable for unsatisfied claims following liquidation of the insolvency estate of the debtor. Therefore, Member States should ensure that in simplified winding-up proceedings entrepreneur debtors, as well as those founders, owners or members of an unlimited liability microenterprise debtor who are personally liable for the debts of the microenterprise subject to simplified winding-up proceedings, are fully discharged from their debts. For the purpose of granting such discharge, Member States should apply Title III of Directive (EU) 2019/1023 mutatis mutandis.	*deleted*	*deleted*	*deleted* G
Recital 47				
60	*(47)* It is important to ensure a fair balance between the interests	(47) ***In order to protect creditors, this Directive***	(47) It is important to ensure ~~a fair balance between the~~**that**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	of the debtor and creditors in insolvency proceedings. Creditors' committees allow for better involvement of creditors in insolvency proceedings, in particular when creditors would otherwise be inhibited from doing so individually, due to limited resources, economic significance of their claims or the lack of geographic proximity. Creditors' committees can especially help cross-border creditors better exercise their rights and ensure their fair treatment. Member States should allow the establishment of a creditors' committee once proceedings are opened. A creditors' committee should be established only provided that creditors agree. Member States may also allow to establish it before proceedings are opened and after the filing for insolvency. In this case, however, Member States should provide that creditors agree to its continuation and composition at the general meeting. If creditors disagree with the composition, they may also establish a new creditors' committee.	***strengthens the provisions concerning creditors' committees, ensuring fair representation of all categories of creditors, including cross-border creditors, and increased transparency in the decision-making process.*** It is important to ensure a fair balance between the interests of the debtor and creditors in insolvency proceedings. Creditors' committees allow for better involvement of creditors in insolvency proceedings, in particular when creditors would otherwise be inhibited from doing so individually, due to limited resources, economic significance of their claims or the lack of geographic proximity. Creditors' committees can especially help cross-border creditors better exercise their rights and ensure their fair treatment. Member States should allow the establishment of a creditors' committee once proceedings are opened. A creditors' committee should be established only provided that creditors agree. Member States may also allow to establish it before proceedings are opened and	**creditors are appropriately involved in the process, such that creditors'** interests ~~of the debtor and creditors in insolvency proceedings~~**can be adequately considered**. Creditors' committees allow for better involvement of creditors in insolvency proceedings, in particular when creditors would otherwise be inhibited from doing so individually, due to limited resources, economic significance of their claims or the lack of geographic proximity. Creditors' committees can ~~especially~~ help cross-border creditors better exercise their rights and ensure their fair treatment. Member States should allow the establishment of a creditors' committee once **insolvency** proceedings are opened**. Member States should also be able to provide that a creditors' committee is established before insolvency proceedings are opened. Member States are not prevented from extending the application of those provisions to preventive restructuring proceedings**. A creditors'	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		after the filing for insolvency. In this case, however, Member States should provide that creditors agree to its continuation and composition at the general meeting. ~~*If creditors disagree with the composition, they may also establish a new creditors' committee.*~~	committee should be established ~~only provided that~~ **whenever the general meeting of** creditors ~~agree~~**so decides or requests or, where national law does not provide for a general meeting of creditors, if creditors so request in accordance with national law**. Member States may ~~also allow to~~**decide that the courts, insolvency practitioners or competent authorities can** establish ~~it before proceedings are opened and after the filing for insolvency. In this case, however, Member States should provide that creditors agree to its continuation and composition at the general meeting. If creditors disagree with the composition, they may also establish a new~~**the** creditors' committee **on their own motion or upon request of one or more creditors, the insolvency practitioner or the debtor**.	
Recital 48				
61	(48) The cost of setting up and operating a creditors' committee should be commensurate to the value it generates. The establishment of the creditors'	(48) The cost of setting up and operating a creditors' committee should be commensurate to the value it generates. The establishment of the creditors'	(48) The cost of setting up and operating a creditors' committee ~~should~~**ought to** be commensurate ~~to the value~~**with the benefits** it generates. **Therefore, Member**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	committee should not be justified in those instances where the cost of its set-up and operations is significantly higher than the economic relevance of the decisions it may take. This may be the case where there are too few creditors, where the large majority of creditors has a small share in the claim against the debtor or where the expected recovery from the insolvency estate in insolvency proceedings is significantly lower than the cost of the set-up and operation of the creditors' committee. This occurs in particular in insolvency cases of microenterprises.	committee should not be justified in those instances where the cost of its set-up and operations is significantly higher than the economic relevance of the decisions it may take. This may be the case where there are too few creditors, where the large majority of creditors has a small share in the claim against the debtor or where the expected recovery from the insolvency estate in insolvency proceedings is significantly lower than the cost of the set-up and operation of the creditors' committee. This occurs in particular in insolvency cases of microenterprises.	**State should be able to provide that** the establishment of the creditors' committee ~~should~~**would** not be justified in those instances where the cost **and burden** of its set-up and operations is ~~significantly~~ higher than the economic relevance of the decisions it ~~may~~**might** take. This may be the case where there are too few creditors, where the large majority of creditors has a small share in the claim against the debtor**, where possible delays caused by the establishment of a creditors' committee would lead to a deterioration of the financial situation of the debtor** or where the expected recovery from the insolvency estate in insolvency proceedings is ~~significantly~~ lower than the cost of the set-up and operation of the creditors' committee. ~~This occurs~~**Such situations occur** in particular in insolvency cases **concerning entrepreneur debtors and small enterprises or in discharge procedures. Member States should be able to provide for the establishment of the creditors committee only for**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			large undertakings within the meaning of Article 3(4) of Directive 2013/34/EU~~of microenterprises~~. For smaller enterprises an adequate realization of creditors interests in insolvency proceedings may already be provided by national law in other ways.	
Recital 48a				
61a			**(48a) The provisions on the establishment of the creditors' committee should apply to debtors that are legal persons. Member States may extend the application of those provisions to natural persons who are entrepreneurs.**	
Recital 49				
62	(49) Member States should clarify the requirements, duties and procedures for the appointment of members of the creditors' committee, as well as the functions attributed to the creditors' committee. Member States should be given the option to decide whether the appointment should be done by the general meeting of creditors or by the court. To avoid undue delays in	(49) Member States should clarify the requirements, duties and procedures for the appointment of members of the creditors' committee, as well as the functions attributed to the creditors' committee. Member States should be given the option to decide whether the appointment should be done by the general meeting of creditors or by the court. To avoid undue delays in	(49) Member States should clarify the requirements, duties and procedures for the appointment of members of the creditors' committee, as well as ~~the~~**its** functions~~ attributed to the creditors' committee. Member States should be given the option to decide whether the appointment should be done by the general meeting of creditors or by the court~~. To avoid undue delays in	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	the set-up of the creditors' committee, the members should be appointed expeditiously. Member States should cater for a fair representation of creditors in the committee and ensure that the participation in the creditors' committee is not precluded to creditors whose claim is not yet admitted or to creditors that are resident in another Member State.	the set-up of the creditors' committee, the members should be appointed expeditiously. Member States should cater for a fair representation of creditors in the committee and ensure that the participation in the creditors' committee is not precluded to creditors whose claim is not yet admitted or to creditors that are resident in another Member State. ***Member States should ensure that creditors are fairly represented within the committee. Member States should make sure that workers can be represented in the creditors' committee when they are creditors.***	the set-up of the creditors' committee, the members should be appointed expeditiously **to ensure an efficient running of the insolvency proceedings**. Member States should cater for a fair representation of creditors in the **creditors'** committee and ensure that ~~the participation in the creditors' committee is not precluded to creditors whose claim is not yet admitted or to~~ creditors that are resident in another Member State **are not precluded from participating in the creditors' committee**.	
Recital 50				
63	(50) Fair representation of creditors in the creditors' committee is particularly important in relation to unsecured creditors that are micro, small or medium-sized enterprises, which in the case of insolvency of a debtor which is a large enterprise, if not paid promptly, are also exposed to insolvency (domino effect). Proper representation in the creditors' committee of such	(50) 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, as well as for*** ~~*in relation to*~~ unsecured creditors that are micro, small or medium-sized enterprises, which in the case of insolvency of a debtor which is a large enterprise,	(50) Fair representation of creditors in the creditors' committee is particularly important in relation to unsecured creditors ~~that are micro,~~**, including creditors with** small **claims. Member States should be able to provide that persons or entities other than creditors, such as employees' representatives or creditors' associations**~~or medium-sized enterprises, which~~	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	creditors could ensure that in the course of the distribution of the recovered proceeds they receive their parts more expeditiously.	if not paid promptly, are also exposed to insolvency (domino effect). Proper representation in the creditors' committee of such creditors could ensure that in the course of the distribution of the recovered proceeds they receive their parts more expeditiously.	~~in the case of insolvency of a debtor which is a large enterprise, if not paid promptly~~, are also ~~exposed to insolvency (domino effect). Proper representation in~~**eligible for the appointment to** the creditors' committee ~~of such creditors could ensure that in the course of the distribution of the recovered proceeds they receive their parts more expeditiously~~.	
Recital 51				
64	(51) An important task of the creditors' committee should be to verify that insolvency proceedings are conducted in a way that protects creditors' interests. The committee's role in the monitoring of the fairness and integrity of the proceedings can only be performed effectively if the creditors' committee and its members act independently from the insolvency practitioner and are accountable only to the creditors who established it.	(51) An important task of the creditors' committee should be to verify that insolvency proceedings are conducted in a ***fair and unbiased*** way that protects creditors' interests. The committee's role in the monitoring of the fairness and integrity of the proceedings can only be performed effectively if the creditors' committee and its members act independently from the insolvency practitioner and are accountable only to the creditors who established it. ***The members of the creditors' committee should act in good faith when carrying out the functions of the committee. They should have the***	(51) ~~An important task of~~ The creditors' committee should be ~~to verify that~~**involved in** insolvency proceedings **and ensure that they** are conducted in a way that protects creditors' interests**, including by following and being regularly informed of the activities of the insolvency practitioner, without requiring the insolvency practitioner to be subordinate to the committee**. The committee's role in the monitoring of the fairness and integrity of the proceedings can only be performed effectively if the creditors' committee and its members act independently from the insolvency practitioner and are	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		power to share relevant and necessary information to represented creditors and to receive information from them. Creditors, members of the creditors' committee and any professionals employed by the creditors' committee should maintain the confidentiality of all information obtained in connection with the committee's activities.	accountable only to the creditors ~~who established it~~.	
Recital 52				
65	(52) The number of members in the creditors' committee should, on the one hand, be sufficiently large to ensure diversity of views and interests in the committee and, on the other hand, remain relatively limited to deliver on its tasks effectively and timely. Member States should clarify when and how the composition of the committee needs to be altered, which could happen if representatives are no longer able to act, including in the creditors' best interests, or wish to withdraw. They should also clarify the conditions for the removal of	(52) ***Member States should clarify*** the number of ***the*** members in the creditors' committee ~~*should, on the one hand, be sufficiently large to ensure diversity of views and interests in the committee and, on the other hand, remain relatively limited to deliver on its tasks effectively and timely. Member States should clarify*~~***and*** when and how the composition of the committee needs to be altered, which could happen if representatives are no longer able to act, including in the creditors' best interests, or wish to withdraw. They should also clarify the conditions for the removal of	(52) The number of members in the creditors' committee should, on the one hand, be sufficiently large to ensure diversity of views and interests in the committee and, on the other hand, remain relatively limited to deliver on its tasks effectively and timely. **Nevertheless, in particularly complex cases Member States should be able to increase the number of creditors' committee members to provide adequate protection of creditors' interests.** Member States should clarify when and how the composition of the committee needs to be altered, which could happen if	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	members that acted relentlessly against creditors' interest.	members that ***have*** acted relentlessly against creditors' ***interests or that have a conflict of*** interest.	representatives are no longer able to act, including in the creditors' best interests, or wish to withdraw. ~~They~~**Member States** should also clarify the conditions for the removal of members ~~that acted relentlessly against~~**who committed a violation of serious gravity of duties with respect to the** creditors' interest.	
Recital 53				
66	(53) Members of the creditors' committee retain discretion in the organisation of the work, as long as the working methods are lawful, transparent and effective. Member States should therefore require that the creditors' committee set out the working methods, specifying how meetings should be run, who could attend and vote, and how the impartiality and the confidentiality of the work of the committee is ensured. These working methods should be allowed to also set out a role for employers' representatives or transparency towards other creditors. Creditors should be able to participate and vote electronically or delegate the voting right to a third person,	(53) Members of the creditors' committee retain discretion in the organisation of the work, as long as the working methods are lawful, transparent and effective. Member States should therefore require that the creditors' committee set out the working methods, specifying how meetings should be run, who could attend and vote, and how the impartiality and the confidentiality of the work of the committee is ensured. These working methods should be allowed to also set out a role for employers' representatives or transparency towards other creditors. Creditors should be able to participate and vote electronically or delegate the voting right to a third person,	(53) ~~Members~~**The working methods** of the creditors' committee ~~retain discretion in the organisation of the work, as long as the working methods are lawful,~~**should be** transparent and effective. Member States should therefore ~~require that the creditors' committee~~ set out the working methods, specifying ~~how meetings should be run, who could attend and vote~~**procedures for voting and the necessary quorum, record keeping of the decisions taken by the creditors' committee**, and how the impartiality and the confidentiality of the work of the **creditors'** committee is ensured. ~~These~~**Those** working methods should **also** be	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	provided this person is duly authorised. This possibility would be particularly beneficial for creditors resident in other Member States.	provided this person is duly authorised. This possibility would be particularly beneficial for creditors resident in other Member States.	allowed to ~~also~~ set out a role for ~~employers'~~ **non-creditors'** representatives or transparency towards other creditors. ~~Creditors should be able to participate and vote electronically or delegate the voting right to a third person, provided this person is duly authorised. This possibility would be particularly beneficial for creditors resident in other~~ Member States **may provide that the working methods may be further specified by means of protocols**.	
Recital 53a				
66a			**(53a) Creditors should be able to participate and vote electronically or delegate their voting rights to a duly authorised third person. This possibility would be particularly beneficial for creditors resident in other Member States.**	
Recital 54				
67	(54) Member States should ensure that the court has the power to determine the working methods for the creditors' committee, if they are not established expeditiously. The Commission	(54) Member States should ensure that the court has the power to determine the working methods for the creditors' committee, if they ~~are not~~***have not been*** established ~~expeditiously~~***in the***	*deleted*	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	should establish standard working methods that should facilitate the task of the creditors' committee and reduce the need for courts to intervene in the case of missing working methods.	***creditors' committee's protocol of working methods***. The Commission should establish standard working methods that should facilitate the task of the creditors' committee and reduce the need for courts to intervene in the case of missing working methods.		
Recital 55				
68	*(55)* The creditors' committee should be granted sufficient rights to perform its functions efficiently and effectively. Member States should ensure that the creditors' committee can interact with insolvency practitioners, courts, the debtor, external advisors and the creditors whom it represents, as necessary, to enable the committee to form and communicate a view on matters of direct interest and relevance to creditors, and for this view to be duly considered in proceedings. Member States could also empower the creditors' committee to make decisions..	(55) The creditors' committee should be granted sufficient rights to perform its functions efficiently and effectively. Member States should ensure that the creditors' committee can interact with insolvency practitioners, courts, the debtor, external advisors and the creditors whom it represents, as necessary, to enable the committee to form and communicate a view on matters of direct interest and relevance to creditors, and for this view to be duly considered in proceedings. Member States ~~could~~***should*** also empower the creditors' committee to ***appoint a secretary, to request external consultations and to*** make decisions.~~.~~	(55) The creditors' committee should be granted sufficient rights to perform its functions efficiently and effectively. Member States should ensure that the creditors' committee **acts in a transparent manner and** can interact with insolvency practitioners, courts, the ~~debtor~~**debtor-in-possession**, ~~external advisors~~ and the creditors ~~whom~~**that** it represents, as necessary, to enable the **creditors'** committee to form and communicate ~~a view~~**its views** on matters of direct interest and relevance to creditors, and for ~~this view~~**those views** to be duly considered in proceedings**. Member States should ensure the right of the creditors' committee to request**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			information from the insolvency practitioner and, where the debtor remains in possession, from the debtor. Member States could provide for a right of the creditors' committee to be consulted on major decisions. Member States could also empower the creditors' committee to ~~make~~**take** decisions.~~.~~	
Recital 56				
69	(56) Since the operation of the creditors' committee incurs expenses, Member States should determine upfront who pays for them. Member States should also establish safeguards to prevent that the costs of the creditors' committee reduce the recovery value of the insolvency estate in a disproportionate manner.	(56) Since the operation of the creditors' committee incurs expenses, Member States should determine upfront who pays for them. Member States should also establish safeguards to prevent that the costs of the creditors' committee reduce the recovery value of the insolvency estate in a disproportionate manner.	(56) Since the operation of the creditors' committee incurs expenses, Member States should ~~determine upfront~~**establish clear rules as to** who pays for them. Member States should also establish safeguards to prevent that the costs of the creditors' committee reduce the recovery value of the insolvency estate in a disproportionate manner.	
Recital 57				
70	(57) To encourage creditors to become members of the creditors' committee, Member States should limit their individual civil liability when they carry out functions in accordance with this Directive. Nonetheless, members of the creditors' committee acting	(57) To encourage creditors to become members of the creditors' committee, Member States should limit their individual civil liability when they carry out functions in accordance with this Directive. Nonetheless, members of the creditors' committee acting	(57) To encourage creditors to become members of the creditors' committee, Member States should limit their ~~individual~~ civil liability when they carry out functions in accordance with this Directive. Nonetheless, members of the creditors' committee ~~acting~~	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	fraudulently or negligently, when carrying out those functions, can be removed and held liable for their actions. In those cases, Member States should provide that the members are held individually liable for the detriment caused by their misconduct.	fraudulently or negligently, when carrying out those functions, can be removed and held liable for their actions. In those cases, Member States should provide that the members are held individually liable for the detriment caused by their misconduct.	~~fraudulently or negligently, when carrying out those functions,~~**that have violated their duties intentionally or in a grossly negligent manner** can be removed and held liable for their actions. In those cases, Member States should provide that the members are held individually liable for the detriment caused by their misconduct. **Member States may decide not to apply such limitation of the civil liability when the expenses for an insurance covering the personal liability of the members of the creditors' committee members is borne by the insolvency estate. Where Member States entrust the creditors' committee with greater powers, allowing it, for example, to take decisions concerning the assets of the debtor or to accept transactions in insolvency proceedings, Member States should be able to provide that the members of the creditors' committee are held liable in the same manner as an insolvency practitioner.**	
Recital 58				

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
71	(58) To ensure an enhanced transparency of the key features of national insolvency proceedings and help especially cross-border creditors to estimate what would happen if their investments got involved in insolvency proceedings, investors and potential investors should be granted easy access to that information in a pre-defined, comparable and user-friendly format. A standardised key information factsheet should be prepared and made available to the public by Member States. This document would be key for potential investors to make a "glance-through" assessment of the insolvency proceedings rules in a given Member State. It should contain sufficient explanations to allow the reader to understand the information therein without having to resort to other documents. The key information factsheet should in particular include practical information on the insolvency trigger as well as on the steps to take to request the opening of insolvency proceedings or to lodge a claim.	(58) To ensure an enhanced transparency of the key features of national insolvency proceedings and help especially cross-border creditors to estimate what would happen if their investments got involved in insolvency proceedings, investors and potential investors should be granted easy access to that information in a pre-defined, comparable and user-friendly format. A standardised key information factsheet should be prepared and made available to the public by Member States. This document would be key for potential investors to make a "glance-through" assessment of the insolvency proceedings rules in a given Member State. It should contain sufficient explanations to allow the reader to understand the information therein without having to resort to other documents. The key information factsheet should in particular include practical information on the insolvency trigger as well as on the steps to take to request the opening of insolvency proceedings or to lodge	(58) To ensure an enhanced transparency of the key features **of all type**s of national insolvency proceedings and help especially cross-border creditors to estimate what would happen if their investments got involved in insolvency proceedings, investors and potential investors should be granted easy access to that information in a pre-defined, comparable and user-friendly format. A standardised key information factsheet should be prepared and made available to the public by Member States. ~~This~~**That** document would be ~~key~~**important** for potential investors to make a "glance-through" assessment of the insolvency proceedings rules in a given Member State. It should contain sufficient explanations to allow the reader to understand the information therein without having to resort to other documents. The key information factsheet should**,** in particular**,** include practical information on the **conditions that trigger the opening of** insolvency ~~trigger~~**proceedings** as well as on the steps to take to request the	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		a claim. ***It should be prepared in a multilinguistic format.***	opening of insolvency proceedings or to lodge a claim. **Since Member States are already required to provide information on their national rules on insolvency procedures under Regulation (EU) 2015/848, it is important to ensure that information provided under this Directive is consistent with information provided under that Regulation. To that end, the Member States should be able to provide the information required by this Directive through the European Judicial Network in civil and commercial matters established by Council Decision 2001/470/EC[1].** **1. Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters (OJ L 174, 27.6.2001, p. 25).**	
Recital 58a				
71a			**(58a) In the event of exceptional emergency situations stemming from natural disasters or other catastrophic events**	

PRESS

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			which seriously disrupt economic activities at the level of a Member State or its regions, Member States should be able to act quickly in order to minimise the adverse impact of those situations on the economy. Such situations have arisen in the context of the Covid pandemic and may arise in the context of a systemic crisis as defined in Article 2(1), point (30), of Directive 2014/59/EU or in situations where State aid is compatible with the internal market to repair damage caused by natural disasters or exceptional occurrences pursuant to Article 107(2), point (b), TFEU. In such situations, which imply the risk of widespread insolvencies, including for companies that are viable under ordinary circumstances, Member States should be able to temporarily derogate from certain provisions of this Directive. The derogations should be limited in scope and time to what is essential to address the exceptional situation, for	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			example by being restricted geographically to the region in the Member States that is affected by a natural disaster. Member States should notify the Commission of the measures which derogate from this Directive, their territorial scope, their duration and a justification of the necessity of their implementation. The obligation of Member States to notify those measures should not affect their entry into force and application. The notification, which facilitates the Commission's monitoring of the compliance of derogations with the relevant requirements, should be brought to the attention of other Member States without undue delay. The maximum time of the derogation should be one year comprising a possibility of extending it by six-month-periods with an additional controlling mechanism, obliging a Member State to notify the request no later than three months before its expiration and allowing the Commission to oppose it.	
Recital 59				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
72	(59) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.	(59) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.	(59) In order to ensure uniform conditions for the implementation of this ~~Regulation~~**Directive**, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.	
Recital 59a				
72a		***(59a) This Directive should be without prejudice to the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure pursuant to Directive (EU) 2016/943 of the European Parliament and of the Council[1a].*** _____ ***1a. Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets).***		
Recital 60				

Public

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 73	(60) Since the objectives of this Directive cannot be sufficiently achieved by the Member States because differences between national insolvency frameworks would continue to raise obstacles to the free movement of capital and the freedom of establishment, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	(60) Since the objectives of this Directive cannot be sufficiently achieved by the Member States because differences between national insolvency frameworks would continue to raise obstacles to the free movement of capital and the freedom of establishment, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	(60) Since the objectives of this Directive cannot be sufficiently achieved by the Member States because differences between national insolvency frameworks would continue to raise obstacles to the free movement of capital and the freedom of establishment, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.	(60) Since the objectives of this Directive cannot be sufficiently achieved by the Member States because differences between national insolvency frameworks would continue to raise obstacles to the free movement of capital and the freedom of establishment, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives. G
Recital 61				
G 74	(61) This Directive respects the fundamental rights and observes the principles recognised by the Charter of the Fundamental Rights of the European Union, in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter), the freedom to choose an occupation and right to	(61) This Directive respects the fundamental rights and observes the principles recognised by the Charter of the Fundamental Rights of the European Union, in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter), the freedom to choose an occupation and right to	(61) This Directive respects the fundamental rights and observes the principles recognised by the Charter of the Fundamental Rights of the European Union, in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter), the freedom to choose an occupation and right to	(61) This Directive respects the fundamental rights and observes the principles recognised by the Charter of the Fundamental Rights of the European Union, in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter), the freedom to choose an occupation and right to G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	engage in work (Article 15 of the Charter), the freedom to conduct a business (Article 16 of the Charter), the right to property (Article 17 of the Charter), workers' right to information and consultation (Article 27 of the Charter) as well as the right to a fair trial (Article 47(2) of the Charter).	engage in work (Article 15 of the Charter), the freedom to conduct a business (Article 16 of the Charter), the right to property (Article 17 of the Charter), workers' right to information and consultation (Article 27 of the Charter) as well as the right to a fair trial (Article 47(2) of the Charter).	engage in work (Article 15 of the Charter), the freedom to conduct a business (Article 16 of the Charter), the right to property (Article 17 of the Charter), workers' right to information and consultation (Article 27 of the Charter) as well as the right to a fair trial (Article 47(2) of the Charter).	engage in work (Article 15 of the Charter), the freedom to conduct a business (Article 16 of the Charter), the right to property (Article 17 of the Charter), workers' right to information and consultation (Article 27 of the Charter) as well as the right to a fair trial (Article 47(2) of the Charter).
Recital 62				
G 75	(62) Regulation (EU) 2016/679 of the European Parliament and of the Council[1] applies to the processing of personal data for the purposes of this Directive. Regulation (EU) 2018/1725 of the European Parliament and of the Council[2] applies to the processing of personal data by the Union institutions and bodies for the purposes of this Directive. _____ 1. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive	(62) Regulation (EU) 2016/679 of the European Parliament and of the Council[1] applies to the processing of personal data for the purposes of this Directive. Regulation (EU) 2018/1725 of the European Parliament and of the Council[2] applies to the processing of personal data by the Union institutions and bodies for the purposes of this Directive. _____ 1. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive	(62) Regulation (EU) 2016/679 of the European Parliament and of the Council[1] applies to the processing of personal data for the purposes of this Directive. Regulation (EU) 2018/1725 of the European Parliament and of the Council[2] applies to the processing of personal data by the Union institutions and bodies for the purposes of this Directive. _____ 1. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive	(62) Regulation (EU) 2016/679 of the European Parliament and of the Council[1] applies to the processing of personal data for the purposes of this Directive. Regulation (EU) 2018/1725 of the European Parliament and of the Council[2] applies to the processing of personal data by the Union institutions and bodies for the purposes of this Directive. _____ 1. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive G

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1). 2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).	95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1). 2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).	95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1). 2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).	95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1). 2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).
Recital 63				
G 76	(63) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered an opinion on [OP: add data of publication],	(63) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered an opinion on [~~*OP: add data of publication*~~***OP: add data of publication***],	(63) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered an opinion on [~~OP: add data of publication~~***OP: add data of publication***],	(63) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered an opinion on [~~*OP: add data of publication*~~***OP: add data of publication***], G Text Origin: Council Mandate
Formula				

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
77	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:	HAVE ADOPTED THIS DIRECTIVE:
Title I				
78	Title I GENERAL PROVISIONS	Title I GENERAL PROVISIONS	Title I GENERAL PROVISIONS	Title I GENERAL PROVISIONS
Article 1				
79	Article 1 Subject matter and scope	Article 1 Subject matter and scope	Article 1 Subject matter and scope	Article 1 Subject matter and scope
Article 1(1)				
80	1. This Directive lays down common rules on:	1. ***In order to maximise legal certainty concerning the value of companies, to improve the efficiency of insolvency proceedings both in terms of cost and length, to improve predictability and to ensure a fair distribution of value among creditors,*** this Directive lays down common rules on:	1. This Directive lays down common rules on:	
Article 1(1), point (a)				
81	(a) avoidance actions;	(a) avoidance actions;	(a) avoidance actions;	(a) avoidance actions;
Article 1(1), point (b)				
82	(b) the tracing of assets belonging to the insolvency estate;	(b) the tracing of assets belonging to the insolvency estate;	(b) the tracing of assets belonging to the insolvency estate;	(b) the tracing of assets belonging to the insolvency estate;
Article 1(1), point (c)				
83	(c) pre-pack proceedings;	(c) pre-pack proceedings;	(c) **the pre-pack mechanism**~~pre-pack proceedings~~;	

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
Article 1(1), point (d)						
G	84	(d) the duty of directors to submit a request for the opening of insolvency proceedings;	(d) the duty of directors to submit a request for the opening of insolvency proceedings;	(d) the duty of directors to submit a request for the opening of insolvency proceedings;	(d) the duty of directors to submit a request for the opening of insolvency proceedings;	G
Article 1(1), point (e)						
G	85	(e) simplified winding-up proceedings for microenterprises;	*deleted*	*deleted*	*deleted*	G
Article 1(1), point (f)						
G	*86*	*(f)* creditors' committees;	(f) creditors' committees;	(f) creditors' committees;	(f) creditors' committees;	G
Article 1(1), point (g)						
G	87	(g) the drawing-up of a key information factsheet by Member States on certain elements of their national law on insolvency proceedings.	(g) the drawing-up of a key information factsheet by Member States on certain elements of their national law on insolvency proceedings.	(g) the drawing-up of a key information factsheet by Member States on certain elements of their national law on insolvency proceedings.	(g) the drawing-up of a key information factsheet by Member States on certain elements of their national law on insolvency proceedings.	G
Article 1(1a), first subparagraph						
Y	87a			**1a. Titles II, III and VII apply to collective proceedings which are based on national laws relating to insolvency.**	***1a. Titles II, III and VII of this Directive apply to collective proceedings, as defined in Article 2, point (1), of Regulation (EU) 2015/848, which are based on laws relating to insolvency, with the exception of preventive restructuring procedures. Title II does not apply to interim proceedings.***	Y

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
				Council to check and propose a recital explaining that this also applies to Denmark, if deemed necessary.	
Article 1(1a), second subparagraph					
Y	87b		**Title II, III and VII do not apply to preventive restructuring procedures and Title II does not apply to interim proceedings.**	Taken in 87a.	Y
Article 1(2)					
G	88	2. This Directive does not apply to proceedings referred to in paragraph 1 of this Article that concern debtors that are:	2. This Directive does not apply ~~to proceedings referred to in paragraph 1 of this Article that concern~~**where** debtors ~~that~~ are:	2. This Directive does not apply ~~*to proceedings referred to in paragraph 1 of this Article that concern*~~***where*** debtors ~~*that*~~ are: Text Origin: Council Mandate	G
Article 1(2), point (a)					
G	89	(a) insurance undertakings or reinsurance undertakings as defined in Article 13 points (1) and (4), of Directive 2009/138/EC of the European Parliament and of the Council;	(a) insurance undertakings or reinsurance undertakings as defined in Article 13 points (1) and (4), of Directive 2009/138/EC of the European Parliament and of the Council;	(a) insurance undertakings or reinsurance undertakings as defined in Article 13 points (1) and (4), of Directive 2009/138/EC of the European Parliament and of the Council;	G
Article 1(2), point (b)					
G	90	(b) credit institutions as defined in Article 4(1), point (1), of Regulation (EU) No 575/2013	(b) credit institutions as defined in Article 4(1), point (1), of Regulation (EU) No 575/2013	(b) credit institutions as defined in Article 4(1), point (1), of Regulation (EU) No 575/2013	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	of the European Parliament and of the Council;	of the European Parliament and of the Council;	of the European Parliament and of the Council;	of the European Parliament and of the Council;
Article 1(2), point (c)				
G 91	(c) investment firms or collective investment undertakings as defined in Article 4(1), points (2) and (7), of Regulation (EU) No 575/2013;	(c) investment firms or collective investment undertakings as defined in Article 4(1), points (2) and (7), of Regulation (EU) No 575/2013;	(c) investment firms or collective investment undertakings as defined in Article 4(1), points (2) and (7), of Regulation (EU) No 575/2013;	(c) investment firms or collective investment undertakings as defined in Article 4(1), points (2) and (7), of Regulation (EU) No 575/2013; G
Article 1(2), point (d)				
G 92	(d) central counterparties as defined in Article 2, point (1), of Regulation (EU) No 648/2012 of the European Parliament and of the Council;	(d) central counterparties as defined in Article 2, point (1), of Regulation (EU) No 648/2012 of the European Parliament and of the Council;	(d) central counterparties as defined in Article 2, point (1), of Regulation (EU) No 648/2012 of the European Parliament and of the Council;	(d) central counterparties as defined in Article 2, point (1), of Regulation (EU) No 648/2012 of the European Parliament and of the Council; G
Article 1(2), point (e)				
G 93	(e) central securities depositories as defined in Article 2(1), point (1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council;	(e) central securities depositories as defined in Article 2(1), point (1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council;	(e) central securities depositories as defined in Article 2(1), point (1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council;	(e) central securities depositories as defined in Article 2(1), point (1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council; G
Article 1(2), point (f)				
G 94	(f) other financial institutions and entities listed in Article 1(1), first subparagraph of Directive 2014/59/EU of the European Parliament and of the Council;	(f) other financial institutions and entities listed in Article 1(1), first subparagraph of Directive 2014/59/EU of the European Parliament and of the Council;	(f) other financial institutions and entities listed in Article 1(1), first subparagraph of Directive 2014/59/EU of the European Parliament and of the Council;	(f) other financial institutions and entities listed in Article 1(1), first subparagraph of Directive 2014/59/EU of the European Parliament and of the Council; G
Article 1(2), point (g)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
95	(g) public bodies under national law;	(g) public bodies under national law;	(g) public bodies under national law;	(g) public bodies under national law;
Article 1(2), point (h)				
96	(h) natural persons, except for entrepreneurs and, with regard to debt discharge procedures, those founders, owners or members of unlimited liability microenterprise debtors who are personally liable for the debts of the debtor.	(h) natural persons, except for entrepreneurs and, with regard to debt discharge procedures, those founders, owners or members of unlimited liability microenterprise debtors who are personally liable for the debts of the debtor.	(h) natural persons, ~~except for~~ **who are not** entrepreneurs ~~and, with regard to debt discharge procedures, those founders, owners or members of unlimited liability microenterprise debtors who are personally liable for the debts of the debtor~~.	(h) natural persons~~, except for~~ ***who are not*** entrepreneurs ~~*and, with regard to debt discharge procedures, those founders, owners or members of unlimited liability microenterprise debtors who are personally liable for the debts of the debtor*~~. Text Origin: Council Mandate
Article 1(2a)				
96a				***2a. Member States may exclude from the scope of this Directive debtors that are financial entities, other than those referred to in paragraph 2, providing financial services that are subject to special arrangements under which the national supervisory or resolution authorities have wide-ranging powers of intervention comparable to those in relation to the financial entities referred to in paragraph 2. Member States***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				shall communicate those special arrangements to the Commission.
Article 1(3)				
96b			**3. Titles IV and VII apply to debtors that are legal persons.**	***3. Titles IV and VII apply to debtors that are legal persons.*** Text Origin: Council Mandate
Article 1(4)				
96c			**4. Member States may decide to apply Title VII only to debtors that are large undertakings within the meaning of Article 3(4) of Directive 2013/34/EU.**	EP considers political
Article 1(5)				
96d			**5. Member States may exclude from the scope of this Directive debtors that are financial entities, other than those referred to in paragraph 3, providing financial services that are subject to special arrangements under which the national supervisory or resolution authorities have wide-ranging powers of intervention comparable to those in relation to the financial entities referred**	*deleted* *moved above in line 96a* *Text Origin: Council Mandate*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			to in paragraph 3. Member States shall communicate those special arrangements to the Commission.	
Article 2				
97	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions
Article 2, first paragraph				
98	For the purposes of this Directive, the following definitions apply:	For the purposes of this Directive, the following definitions apply:	**1.** For the purposes of this Directive, the following definitions apply:	For the purposes of this Directive, the following definitions apply: Text Origin: Commission Proposal
Article 2, first paragraph, point (a)				
99	(a) 'insolvency practitioner' means a practitioner appointed by a judicial or administrative authority in procedures concerning restructuring, insolvency and discharge of debt as referred to in Article 26 Directive (EU) 2019/1023;	(a) 'insolvency practitioner' means a ~~*practitioner appointed by a judicial or administrative authority in procedures concerning restructuring, insolvency and discharge of debt as referred to*~~***person or body who has one or more of the functions listed in Article 2, point (5), of Regulation (EU) 2015/848 and*** in Article ~~*26*~~***2(1), point (12), of*** Directive (EU) 2019/1023;	(a) 'insolvency practitioner' means ~~a practitioner appointed by a judicial or administrative authority in procedures concerning restructuring, insolvency and discharge of debt as~~ **any person or body whose functions comprise one or more of those** referred to in Article ~~26~~**2, point (5), of Regulation (EU) 2015/848 and in Article 2(1), point (12), of** Directive (EU) 2019/1023;	(a) 'insolvency practitioner' means a ~~*practitioner appointed by a judicial or administrative authority in procedures concerning restructuring, insolvency and discharge of debt as referred to*~~***person or body who has one or more of the functions listed in Article 2, point (5), of Regulation (EU) 2015/848 and*** in Article ~~*26*~~***2(1), point (12), of*** Directive (EU) 2019/1023; Text Origin: EP Mandate

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 2, first paragraph, point (b)				
100	(b) 'court' means the judicial body of a Member State;	(b) 'court' means ~~*the judicial body of a Member State;*~~ ***:***	(b) ~~'~~court' means ~~**the**~~**a** judicial body of a Member State;	(b) ~~'~~court' means ~~*the*~~***a*** judicial body of a Member State; Text Origin: Council Mandate
Article 2, first paragraph, point (b)(i)				
100a		***(i) for the purposes of Article 18a, Title IV, with the exception of Article 21, Title V and Title VII, with the exception of Article 59(5), a judicial body of a Member State or the authority of a Member State competent for insolvency proceedings;***		
Article 2, first paragraph, point (b)(ii)				
100b		***(ii) for the purposes of all other articles, a judicial body of a Member State;***		
Article 2, first paragraph, point (c)				
101	(c) 'competent authority' means a judicial or administrative authority of a Member State that is responsible for conduct or oversight, or both, of simplified winding-up proceedings, in accordance with Title VI of this Directive;	*deleted*	*deleted*	*deleted*
Article 2, first paragraph, point (d)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 102	*(d)* 'centralised bank account registries' means the centralised automated mechanisms, such as central registries or central electronic data retrieval systems, put in place in accordance with Article 32a(1) of Directive (EU) 2015/849;	(d) '~~*centralised*~~ bank account ~~*registries*~~***registers*** ' means ~~*the*~~ centralised automated mechanisms, such as central registries or central electronic data retrieval systems, put in place in accordance with Article ~~*32a*~~***16*** (1) of Directive (EU) ~~*2015/849*~~***2024/1640***;	(d) '~~centralised~~ bank account ~~registries~~**registers and electronic data retrieval systems**' means ~~the~~ centralised automated mechanisms, such as central ~~registries~~**registers** or central electronic data retrieval systems, put in place in accordance with Article ~~32a(1)~~**16(1)** of Directive (EU) ~~2015/849~~**2024/1640 of the European Parliament and of the Council**[1]; _____ **1. Directive (EU) /1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive(EU) 2019/1937, and amending and repealing Directive (EU) 2015/849 (OJ L…, ELI: …).**	(d) '~~*centralised*~~ bank account ~~*registries*~~***registers***' means ~~*the*~~ centralised automated mechanisms, such as central ~~*registries*~~***registers*** or central electronic data retrieval systems, put in place in accordance with Article ~~*32a(1)*~~***16(1)*** of Directive (EU) ~~*2015/849*~~***2024/1640 of the European Parliament and of the Council***[1]; _____ ***1. Directive (EU) /1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive(EU) 2019/1937, and amending and repealing Directive (EU) 2015/849 (OJ L…, ELI: …).*** G
Article 2, first paragraph, point (e)				
G 103	(e) 'beneficial ownership register' means national central	(e) '***central*** beneficial ownership register' means national	(e) '**central** beneficial ownership ~~register~~**registers**'	(e) '***central*** beneficial ownership register' means national G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	registers on beneficial ownership information referred to in Articles 30 and 31 of Directive (EU) 2015/849;	central registers ~~on~~***holding*** beneficial ownership information ***and the systems of interconnection of those registers as*** referred to in ~~*Articles 30 and 31*~~***Article 10*** of Directive (EU) ~~*2015/849*~~***2024/1640***;	means national central registers **holding the** ~~on~~ beneficial ownership information **and the systems of interconnection of those registers** referred to in ~~Articles 30 and 31~~**Article 10** of Directive (EU) ~~2015/849~~**2024/1640 of the European Parliament and of the Council**;	central registers ~~on~~***holding*** beneficial ownership information ***and the systems of interconnection of those registers as*** referred to in ~~*Articles 30 and 31*~~***Article 10*** of Directive (EU) ~~*2015/849*~~***2024/1640***; Text Origin: EP Mandate
Article 2, first paragraph, point (ea)				
G 103a			**(ea) 'bank account information' means the information as listed in Article 16(3) of Directive (EU) 2024/1640 of the European Parliament and of the Council;**	taken in 103b
Article 2, first paragraph, point (eb)				
G 103b		***(ea) 'bank account information' means the information listed in Article 16(3) of Directive (EU) 2024/1640;***		***(ea) 'bank account information' means the information listed in Article 16(3) of Directive (EU) 2024/1640;*** Text Origin: EP Mandate
Article 2, first paragraph, point (f)				
G 104	(f) 'legal act' means any human behaviour, including an omission, producing a legal effect;	(f) 'legal act' means any human behaviour, ~~*including an omission,*~~ producing a legal effect;	(f) 'legal act' means**, for the purposes of Title II, any deliberate** ~~any~~ human behaviour~~,~~	(f) 'legal act' means***, for the purposes of Title II, any deliberate*** ~~*any*~~ human behaviour~~,~~

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			~~including an omission,~~ producing a legal effect;	~~*including an omission,*~~ producing a legal effect; EP counterproposal: Council text but Recital 6 should explain that "deliberate" should include "omissions" Text Origin: Council Mandate
Article 2, first paragraph, point (g)				
105	(g) 'executory contract' means a contract between a debtor and one or more counterparties under which the parties still have obligations to perform at the time of the opening of insolvency proceedings in the liquidation phase in Title IV;	(g) 'executory contract' means a contract between a debtor and one or more counterparties under which the parties still have obligations to perform at the time of the opening of insolvency proceedings in the liquidation phase in Title IV***, but does not include netting agreements***;	(g) 'executory contract' means a contract between a debtor and one or more counterparties under which the parties still have obligations to perform at the time of the opening of insolvency proceedings in the liquidation phase in Title IV;	linked to line 262a **Question to the Member States:** **Can the Member States accept that the following wording is added to the EP text:** **"…, including close-out netting arrangements, on financial markets, energy markets and commodity markets if such arrangements are enforceable under national insolvency law" This should be read in conjunction with the COM compromise proposal for line 262a.**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 2, first paragraph, point (h)				
106	(h) 'best-interest-of-creditors test' means the test whereby no creditor would be worse off under a liquidation in pre-pack proceedings than such a creditor would be if the normal ranking of liquidation priorities were applied in the event of a piecemeal liquidation;	(h) 'best-interest-of-creditors test' means the test whereby no creditor would be worse off under a liquidation in pre-pack proceedings than such a creditor would be if the normal ranking of liquidation priorities were applied in the event of a piecemeal liquidation ***or the sale of the business, or a part thereof, as a going concern***;	(h) 'best-interest-of-creditors test' means the test whereby no creditor would be worse off under a liquidation in **the context of a pre-pack mechanism**~~pre-pack proceedings~~ than such a creditor would be if the normal ranking of liquidation priorities were applied in the event of a piecemeal liquidation **or, where Member States so provide, in the event of the next-best-alternative scenario**;	
Article 2, first paragraph, point (i)				
107	(i) 'interim financing' means any new financial assistance, provided by an existing or a new creditor, that includes, as a minimum, financial assistance during pre-pack proceedings, and that is reasonable and immediately necessary for the debtor's business or part thereof to continue operating, or to preserve or enhance the value of that business;	(i) 'interim financing' means any new financial assistance, provided by an existing or a new creditor, that includes, as a minimum, financial assistance during pre-pack proceedings, and that is reasonable and immediately necessary for the debtor's business or part thereof to continue operating, or to preserve or enhance the value of that business;	(i) 'interim financing' means any new financial assistance, provided by an existing or a new creditor, that includes, as a minimum, financial assistance during **the pre-pack mechanism**~~pre-pack proceedings~~, and that is reasonable and immediately necessary for the debtor's business or part thereof to continue operating, or to preserve or enhance the value of that business;	
Article 2, first paragraph, point (j)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	108 (j) 'microenterprise' means a microenterprise within the meaning of the Annex to Commission Recommendation 2003/361/EC;	*deleted*	*deleted*	*deleted*	G
	Article 2, first paragraph, point (k)				
G	*109* *(k)* 'unlimited liability microenterprise' means a microenterprise with or without separate legal personality and without limited liability protection of any of its founders, owners or members;	*deleted*	*deleted*	*deleted*	G
	Article 2, first paragraph, point (l)				
G	*110* *(l)* 'entrepreneur' means an entrepreneur as defined in Article 2(1), point (9) of Directive (EU) 2019/1023;	*deleted*	*deleted*	*deleted*	G
	Article 2, first paragraph, point (m)				
G	*111* *(m)* 'full discharge of debt' means the situation in which either i) the enforcement of outstanding dischargeable debts against entrepreneurs or against those individuals who are founders, owners or members of an unlimited liability microenterprise and are personally liable for the debts of the microenterprise is precluded or ii) outstanding	*deleted*	*deleted*	*deleted*	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	dischargeable debts as such are cancelled, as part of simplified winding-up proceedings;			
Article 2, first paragraph, point (n)				
112	*(n)* 'repayment plan' means a programme of payments of specified amounts on specified dates to creditors by a natural person benefiting from a full discharge of debt, or a plan setting out periodic transfers to creditors of a certain part of the disposable income of the natural person concerned during the discharge period;	*deleted*	*deleted*	*deleted*
Article 2, first paragraph, point (o)				
113	*(o)* 'creditors' committee' means a representative body of creditors appointed in accordance with the applicable law on insolvency proceedings with consultative and other powers as specified in that law;	(o) 'creditors' committee' means a representative body of creditors appointed in accordance with the applicable law on insolvency proceedings with consultative and other powers as specified in that law;	(o) 'creditors' committee' means a representative body of creditors**,** appointed in accordance with ~~the applicable~~**national** law on insolvency proceedings**,** with consultative and other powers as specified in that law;	linked to line 448; EP to make compromise proposal to merge with 444
Article 2, first paragraph, point (p)				
114	(p) 'pre-pack proceedings' means expedited liquidation proceedings that allow for the sale of the business of the debtor, in whole or in part, as a going-concern to the best bidder, with a	(p) 'pre-pack proceedings' means expedited liquidation proceedings that allow for the sale of the business of the debtor, in whole or in part, as a going-concern to the best bidder, with a	(p) 'pre-pack ~~proceedings~~**mechanism**' means ~~expedited~~**a mechanism, comprising a preparation phase and a** liquidation ~~proceedings that allow~~**phase, that allows** for the	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	view to the liquidation of the assets of the debtor as a result of the established insolvency of the debtor;	view to the liquidation of the assets of the debtor as a result of the established insolvency of the debtor;	sale of the business of the debtor, in whole or in part, as a going-concern to the best bidder~~, with a view to the liquidation of the assets of the debtor as a result of the established~~ **in the course of** insolvency ~~of~~**proceedings for** the debtor;	
Article 2, first paragraph, point (pa)				
114a			**(pa) 'preparation phase' means the phase of the pre-pack mechanism aiming at finding an appropriate buyer for the debtor's business or part thereof;**	
Article 2, first paragraph, point (pb)				
114b			**(pb) 'liquidation phase' means the phase of the pre-pack mechanism aiming at approving and executing the sale of the debtor's business or part thereof and at distributing the proceeds to the creditors;**	
Article 2, first paragraph, point (q)				
115	(q) 'party closely related to the debtor' means persons, including legal persons, with preferential access to non-public information on the affairs of the debtor.	*deleted*	(q) 'party closely related to the debtor' means~~ persons, including legal persons, with preferential access to non-public information on the affairs of the debtor.~~**:**	*deleted*

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 2, second paragraph				
116	Where the debtor is a natural person, closely related parties shall include in particular:	*deleted*	*deleted*	*deleted*
Article 2, second paragraph, point (-i)				
116a			**(a) for the purposes of Title II, the following:**	*deleted*
Article 2, second paragraph, point (i)				
117	*(i)* the spouse or partner of the debtor;	*deleted*	*(i)* the spouse or partner of the debtor;	*deleted*
Article 2, second paragraph, point (ii)				
118	*(ii)* ascendants, descendants, and siblings of the debtor, or of the spouse or partner, and the spouses or partners of these persons;	*deleted*	(ii) ascendants, descendants, and siblings of the debtor, or of the spouse or partner **of the debtor**, and the spouses or partners of ~~these~~**those** persons;	*deleted*
Article 2, second paragraph, point (iii)				
119	*(iii)* persons living in the household of the debtor;	*deleted*	*(iii)* persons living in the household of the debtor;	*deleted*
Article 2, second paragraph, point (iv)				
120	*(iv)* persons who are working for the debtor under a contract of employment with access to non-public information on the affairs of the debtor, or otherwise	*deleted*	(iv) persons ~~who are working for the debtor under a contract of employment~~ with access to non-public information on the affairs of the debtor, ~~or otherwise~~	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	performing tasks through which they have access to non-public information on the affairs of the debtor, including advisers, accountants or notaries;		~~performing tasks through which they have access to non-public information on the affairs of the debtor, including advisers, accountants or notaries;~~**who have the possibility:**	
Article 2, second paragraph, point (iv)(1)				
G *120a*			**(a) to control the debtor's operations, including where they work for the debtor under a contract of employment or are in an employment relationship with the debtor or**	*deleted* Text Origin: Council Mandate
Article 2, second paragraph, point (iv)(2)				
G *120b*			**(b) to benefit from the debtor's financial position, as external advisers, accountants or auditors;**	*deleted* Text Origin: Council Mandate
Article 2, second paragraph, point (v)				
G *121*	*(v)* legal entities in which the debtor or one of the persons referred to in points (i) to (iv) of this subparagraph is a member of the administrative, management or supervisory bodies or performs duties which provide for access to non-public information on the affairs of the debtor.	*deleted*	(v) legal entities in which the debtor or one of the persons referred to in points (i) to (iv)~~ of this subparagraph~~ is a member of the administrative, management or supervisory bodies**, or that**~~ or~~ performs duties which provide for access to non-public information on the affairs of the debtor~~.~~**;**	*deleted*

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	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 2, third paragraph				
122	Where the debtor is a legal entity, closely related parties shall include in particular:	*deleted*	Where the debtor is a legal entity~~,~~ closely related parties shall include in particular:	*deleted*
Article 2, third paragraph, point (i)				
123	*(i)* any member of the administrative, management or supervisory bodies of the debtor;	*deleted*	*(i)* any member of the administrative, management or supervisory bodies of the debtor;	*deleted*
Article 2, third paragraph, point (ii)				
124	*(ii)* equity holders with a controlling interest in the debtor;	*deleted*	*(ii)* equity holders with a controlling interest in the debtor;	*deleted*
Article 2, third paragraph, point (iii)				
125	*(iii)* persons which perform functions similar to those performed by persons under point (i);	*deleted*	(iii) persons ~~which~~**who** perform functions similar to those performed by persons under point ~~(i)~~**(vi)**;	*deleted*
Article 2, third paragraph, point (iv)				
126	*(iv)* persons which are closely related in accordance with the second subparagraph to the persons listed in points (i), (ii) and (iii) of this subparagraph.	*deleted*	(iv) persons ~~which~~**who** are closely related in accordance with ~~the second subparagraph~~ **points (i) to (iv)** to the persons ~~listed~~**referred to** in points ~~(i),~~ ~~(ii~~**(vi), (vii),** and (~~iii~~**viii**) of this subparagraph~~.~~**;**	*deleted*
Article 2, third paragraph a				
126a			**(b) for the purposes of Title IV, the persons listed under**	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			point (a) and any other persons, including legal persons, with preferential access to non-public information on the affairs of the debtor.	Text Origin: Council Mandate
Article 2, third paragraph b				
126b		***For the purposes of this Directive, the concepts of "insolvency" and "directors" are to be understood as defined by national law.***		Council will check the EP text
Article 2, second paragraph				
126c			**2. For the purposes of this Directive, the concepts of "insolvency" and "directors" shall be understood in accordance with national law.**	
Article 3				
G 127	Article 3 Relevant point in time in relation to close relatedness	Article 3 ~~*Relevant point in time in relation to close relatedness*~~***Party closely related to the debtor***	Article 3 Relevant point in time in relation to close relatedness	Article 3 ~~*Relevant point in time in relation to close relatedness*~~***Party closely related to the debtor*** Text Origin: EP Mandate
Article 3, first paragraph -a				

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	127a		***For the purposes of this Directive, parties closely related to the debtor shall include:***		***1. For the purposes of Title II, parties closely related to the debtor shall include:***	G
	Article 3, first paragraph -a, point (a)					
G	127b		***(a) where the debtor is a natural person:***		***(a) where the debtor is a natural person:*** Text Origin: EP Mandate	G
	Article 3, first paragraph -a, point (a)(i)					
G	127c		***(i) the spouse or partner of the debtor;***		***(i) the spouse or partner of the debtor;*** Text Origin: EP Mandate	G
	Article 3, first paragraph -a, point (a)(ii)					
G	127d		***(ii) ascendants, descendants, and siblings of the debtor, or of the spouse or partner of the debtor, and the spouses or partners of these persons;***		***(ii) ascendants, descendants, and siblings of the debtor, or of the spouse or partner of the debtor, and the spouses or partners of those persons;*** Text Origin: EP Mandate	G
	Article 3, first paragraph -a, point (a)(iii)					
G	127e		***(iii) persons living in the household of the debtor;***		***(iii) persons living in the household of the debtor;***	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: EP Mandate
Article 3, first paragraph -a, point (a)(l)				
127f		***(iv) persons who are working for the debtor under a contract of employment with access to non-public information on the affairs of the debtor;***		***(iv) persons with access to non-public information on the affairs of the debtor, who have the possibility to control the debtor's operations, including where they work for the debtor under a contract of employment or are in an employment relationship with the debtor;***
Article 3, first paragraph -a, point (a)(m)				
127g		***(v) legal entities in which the debtor or one of the persons referred to in points (i) to (iv) of this subparagraph is a member of the management or supervisory bodies or performs duties which provide for access to non-public information on the affairs of the debtor;***		***(v) legal entities in which the debtor or one of the persons referred to in points (i) to (iv) is a member of the administrative, management or supervisory bodies or that performs duties which provide for access to non-public information on the affairs of the debtor;***
Article 3, first paragraph -a, point (b)				
127h		***(b) where the debtor is a legal entity:***		***(b) where the debtor is a legal entity:*** Text Origin: EP Mandate
Article 3, first paragraph -a, point (b)(i)				

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	127i		***(i) any member of the management or supervisory bodies of the debtor;***		***(i) any member of the administrative, management or supervisory bodies of the debtor;***	G
	Article 3, first paragraph -a, point (b)(ii)					
G	127j		***(ii) equity holders with a controlling interest in the debtor;***		***(ii) equity holders with a controlling interest in the debtor;*** Text Origin: EP Mandate	G
	Article 3, first paragraph -a, point (b)(iii)					
G	127k		***(iii) persons which perform functions similar to those performed by persons under point (i);***		***(iii) persons who perform functions similar to those performed by persons under point (i);*** Text Origin: EP Mandate	G
	Article 3, first paragraph -a, point (b)(iv)					
G	127l		***(iv) persons which are closely related in accordance with the second subparagraph to the persons listed in points (i), (ii) and (iii) of this subparagraph.***		***(iv) persons who are closely related in accordance with the first subparagraph to the persons listed in points (i), (ii) and (iii) of this subparagraph.*** Text Origin: EP Mandate	G
	Article 3, first paragraph -b					

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
Y	127m				***1a. For the purposes of Title IV, parties closely related to the debtor shall include the persons listed in paragraph 1 [and any other persons, including legal persons, with preferential access to non-public information on the affairs of the debtor.]***	Y
	Article 3, first paragraph					
G	128	The point in time for determining whether a party is closely related to the debtor shall be:	The point in time for determining whether a party is closely related to the debtor shall be:	The point in time for determining whether a party is closely related to the debtor shall be:	***2.*** The point in time for determining whether a party is closely related to the debtor shall be:	G
	Article 3, first paragraph, point (a)					
G	129	(a) for the purposes of Title II, the day when the legal act subject to an avoidance action was perfected or three months prior to the perfection of the legal act;	(a) for the purposes of Title II, the day when the legal act subject to an avoidance action was perfected or three months prior to the perfection of the legal act;	(a) for the purposes of Title II, the day when the legal act subject to an avoidance action was perfected or **during a period falling** three months prior to the perfection of the legal act;	(a) for the purposes of Title II, the day when the legal act subject to an avoidance action was perfected or ***during a period falling*** three months prior to the perfection of the legal act; Text Origin: Council Mandate	G
	Article 3, first paragraph, point (b)					
G	130	(b) for the purposes of Title IV, the day when the preparation phase starts or three months prior to the start of the preparation phase.	(b) for the purposes of Title IV, the day when the preparation phase starts or three months prior to the start of the preparation phase.	(b) for the purposes of Title IV, the day when the ~~preparation~~**liquidation** phase **of the pre-pack mechanism** starts or ~~three~~**during a period falling at**	(b) for the purposes of Title IV, the day when the ~~*preparation*~~***liquidation*** phase ***of the pre-pack [mechanism]*** starts or ~~*three*~~***during a period falling at***	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			least six months prior to the ~~start~~**commencement** of the ~~preparation~~**liquidation** phase.	***least six*** months prior to the ~~*start*~~***commencement*** of the ~~*preparation*~~***liquidation*** phase. Text Origin: Council Mandate
Article 3, first paragraph a				
130a		***Paragraph -1 and paragraph 1, point (a), of this Article shall apply mutatis mutandis to the concept of persons closely related to parties which have benefitted from a void, voidable or unenforceable legal act as referred to in Article 11(2), second subparagraph.***		
Article 3a				
G 130b			**Article 3a** **National law and minimum harmonisation**	G
Article 3a, first paragraph				
130c			**1. Member States may adopt or maintain laws in conformity with Union law which provide for a greater level of protection for the general body of creditors than that provided for under Titles II and V.**	Linked to line 315.

PUBLIC

	CLEAN	Commission Proposal	VS.EC	EP Mandate	VS.EC	Council Mandate	VS.EC	Draft Agreement
Article 3a, second paragraph								
Y	130d					**2. Member States may adopt or maintain laws which facilitate access by insolvency practitioners to bank account information held in their national bank account registers and electronic data retrieval systems, beneficial ownership information and national registers and databases, to a greater extent than the rules provided for in Title III.**		almost identical to line 130h Council to check if it takes EP text	Y
Article 3a, third paragraph								
	130e					**3. Member States may adopt or maintain laws relating to the establishment, functioning, tasks and members of creditors' committees which provide for a greater participation of creditors in insolvency proceedings than that provided for in Title VII.**		
Article 3a								
G	130f			***Article 3a*** ***National law and minimum harmonisation***				G
Article 3a, first paragraph								

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
130g		***1. Member States may adopt or maintain laws which provide for a greater level of protection for the general body of creditors than that provided for under Titles II, IV and VII, provided that they comply with Union law.***		
Article 3a, second paragraph				
130h		***2. Member States may adopt or maintain laws which facilitate access by insolvency practitioners to bank account information held in their bank account registers, beneficial ownership information and national registers and databases to a greater extent than the rules provided for in Title III.***		
Article 3a, third paragraph				
130i		***3. Member States shall ensure that, when insolvent, microenterprises have access to insolvency proceedings in situations where the debtor has no assets or its assets are not sufficient to cover the cost of the proceedings or the cost for the involvement of the insolvency practitioner.***		
Article 3a, fourth paragraph				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
130j		***4. Member States may adopt or maintain laws which establish simplified winding-up proceedings for microenterprises.***		
Article 3b				
130k		***Article 3b Protection of workers***		
Article 3b, first paragraph				
130l		***This Directive is without prejudice to the application of national labour law and Union law with regard to workers' rights, in particular Council Directives 98/59/EC[1a] and 2001/23/EC[1b] and Directives 2002/14/EC[1c], 2009/38/EC[1d], (EU) 2016/2341[1e] and 2008/94/EC[1f] of the European Parliament and of the Council. This Directive shall not prevent Member States from introducing or maintaining provisions relating to Title IV which provide for a greater level of protection for workers or their representatives.*** ***1a. Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		of the Member States relating to collective redundancies (OJ L 225, 12.8.1998, p. 16, ELI: http://data.europa.eu/eli/dir/1998/59/oj). ***1b. Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ L 82, 22.3.2001, p. 16, ELI: http://data.europa.eu/eli/dir/2001/23/oj).*** ***1c. 1c Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community (OJ L 80, 23.3.2002, p. 29, ELI: http://data.europa.eu/eli/dir/2002/14/oj) .*** ***1d. Directive 2009/38/EC of the European Parliament and***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (OJ L 122, 16.5.2009, p. 28, ELI: http://data.europa.eu/eli/dir/2009/38/oj). ***1e. Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37, ELI: http://data.europa.eu/eli/dir/2016/2341/oj).*** ***1f. Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer (OJ L 283, 28.10.2008, p. 36, ELI:***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		http://data.europa.eu/eli/dir/2008/94/oj).		
Title II				
131	Title II AVOIDANCE ACTIONS	Title II AVOIDANCE ACTIONS	Title II AVOIDANCE ACTIONS	Title II AVOIDANCE ACTIONS
Chapter 1				
132	Chapter 1 General provisions regarding avoidance actions	Chapter 1 General provisions regarding avoidance actions	Chapter 1 General provisions ~~regarding avoidance actions~~	Chapter 1 General provisions ~~*regarding avoidance actions*~~ Text Origin: Council Mandate
Article 4				
133	Article 4 General prerequisites for avoidance actions	Article 4 General prerequisites for avoidance actions	Article 4 General prerequisites for avoidance actions	Article 4 General prerequisites for avoidance actions
Article 4, first paragraph				
134	Member States shall ensure that legal acts which have been perfected prior to the opening of insolvency proceedings to the detriment of the general body of creditors can be declared void under the conditions laid down in Chapter 2 of this Title.	Member States shall ensure that legal acts which have been perfected prior to the opening of insolvency proceedings to the detriment of the general body of creditors ~~*can be declared void*~~***are void, voidable or unenforceable*** under the conditions laid down in Chapter 2 of this Title.	Member States shall ensure that legal acts which have been perfected prior to the opening of insolvency proceedings to the detriment of the general body of creditors ~~can be declared void~~**are void, voidable or unenforceable** under the conditions laid down in Chapter 2 ~~of this Title~~.	Member States shall ensure that legal acts which have been perfected prior to the opening of insolvency proceedings to the detriment of the general body of creditors ~~*can be declared void*~~***are void, voidable or unenforceable*** under the conditions laid down in Chapter 2 ~~*of this Title*~~.

PUBLIC

	CLEAN	Commission Proposal	VS.EC	EP Mandate	VS.EC	Council Mandate	VS.EC	Draft Agreement
								Text Origin: Council Mandate
Article 4, first paragraph a								
Y	134a			***Member States may adopt or maintain rules that establish that, where a legal act requires registration in a public register for its perfection, the point in time from which the legal act is considered perfected can exceptionally be before the date on which the registration takes place.***				***Member States may provide that a legal act, the effects of which are conditional upon its entry in a public register, is considered perfected as soon as all the other requirements for its effectiveness have been met.*** EP ok with Council compromise proposal Council to check **Question to the Member States:** **The wording of recital 5a (line 18a) has been transferred and adapted in this line.** **Can the Member States accept this wording?**
Article 5								
G	135	Article 5 Relationship to national provisions		*deleted*		*deleted*		*deleted*
Article 5, first paragraph								

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
136	This Directive shall not prevent Member States from adopting or maintaining provisions relating to the voidness, voidability or unenforceability of legal acts detrimental to the general body of creditors in the context of insolvency proceedings where such provisions provide a greater protection of the general body of creditors than those set out in Chapter 2 of this Title.	*deleted*	*deleted*	*deleted*
Chapter 2				
137	Chapter 2 Specific conditions for avoidance actions	Chapter 2 Specific conditions for avoidance actions	Chapter 2 Specific conditions ~~for avoidance actions~~	Chapter 2 Specific conditions ~~*for avoidance actions*~~ Text Origin: Council Mandate
Article 6				
138	Article 6 Preferences	Article 6 Preferences	Article 6 Preferences	Article 6 Preferences
Article 6(1), first subparagraph				
139	1. Member States shall ensure that legal acts benefitting a creditor or a group of creditors by satisfaction, collateralisation or in any other way can be declared void if they were perfected:	1. Member States shall ensure that ***detrimental*** legal acts benefitting a creditor or a group of creditors by satisfaction~~,~~ ***or*** collateralisation ~~*or in any other way can be declared void*~~***are void,***	1. Member States shall ensure that **detrimental** legal acts benefitting a creditor or a group of creditors by satisfaction~~,~~ **or** collateralisation ~~or in any other way can be declared void~~**are void,**	1. Member States shall ensure that ***detrimental*** legal acts benefitting a creditor or a group of creditors by satisfaction~~,~~ ***or*** collateralisation ~~*or in any other way can be declared void*~~***are void,***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		voidable or unenforceable if they were perfected:	**voidable or unenforceable** if they were perfected:	***voidable or unenforceable*** if they were perfected: Text Origin: Council Mandate
Article 6(1), first subparagraph, point (a)				
140	(a) within three months prior to the submission of the request for the opening of insolvency proceedings, under the condition that the debtor was unable to pay its mature debts; or	(a) within three months prior to the submission of the request for the opening of insolvency proceedings, ~~*under the condition*~~***or, in the absence of a formal request, prior to the date of the resolution to commence insolvency proceedings, provided*** that the debtor was unable to pay its mature debts ***under national law***; or	(a) within three months prior to the submission of the request ~~for~~**that led to** the opening of **the** insolvency proceedings, ~~under the condition~~**or, in the absence of a formal request, of the date of the resolution to commence insolvency proceedings, provided** that the debtor was **generally** unable to pay its ~~mature~~ debts **as they fall due in accordance with national law**; or	(a) within three months prior to the submission of the request ~~*for*~~***that led to*** the opening of ***the*** insolvency proceedings, ~~*under the condition*~~***or, in the absence of a formal request, of the date of the resolution to commence insolvency proceedings, provided*** that the debtor was ***generally*** unable to pay its ~~*mature*~~ debts ***as they fall due in accordance with national law***; or EP counterproposal: Council text without "generally" within three months prior to the submission of the request that led to the opening of the insolvency proceedings, or, in the absence of a formal request, of the date of the resolution to commence insolvency proceedings, provided that the debtor was unable to pay its debts as they fall due in accordance with national law; or

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Council cannot accept Text Origin: Council Mandate
Article 6(1), first subparagraph, point (b)				
G 141	(b) after the submission of the request for the opening of insolvency proceedings.	(b) after the submission of the request ~~for~~***or the date of the resolution referred to in point (a) and before*** the opening of insolvency proceedings.	(b) after the submission of the request ~~for~~**or the date of the resolution referred to in point (a) and before** the opening of insolvency proceedings.	(b) after the submission of the request ~~for~~***or the date of the resolution referred to in point (a) and before*** the opening of insolvency proceedings. G
Article 6(1), second subparagraph				
G 142	Where several persons have submitted a request for the opening of insolvency proceedings against the same debtor, the point in time when the first admissible request is submitted shall be considered the beginning of the three-month period referred to in the first subparagraph, point (a).	Where several persons have submitted a request for the opening of insolvency proceedings against the same debtor, the point in time when the first admissible request is submitted shall be considered the beginning of the three-month period referred to in the first subparagraph, point (a).	*deleted*	*deleted* G
Article 6(2), first subparagraph				
143	*2.* If a due claim of a creditor was satisfied or secured in the owed manner, Member States shall ensure that the legal act can be declared void only if:	2. If a due claim of a creditor was satisfied or secured in the owed manner, Member States shall ensure that the legal act ~~can be declared void~~***are void, voidable or unenforceable*** only if:	2. If a due claim of a creditor was satisfied or secured ~~in the owed manner~~**as owed**, Member States shall ensure that ~~the~~**a detrimental** legal act ~~can be declared void only if~~**is void,**	2. If a due claim of a creditor was satisfied or secured ~~in the owed manner~~***as owed***, Member States shall ensure that ~~the~~***a detrimental*** legal act ~~can be declared void only if~~***is void,***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			voidable or unenforceable at least where:	***voidable or unenforceable at least where***: EP counterproposal: Council text with closed list If a due claim of a creditor was satisfied or secured as owed, Member States shall ensure that a detrimental legal act is void, voidable or unenforceable only if: Council cannot accept Text Origin: Council Mandate
Article 6(2), first subparagraph, point (a)				
G 144	(a) the conditions laid down in paragraph 1 are met; and	(a) the conditions laid down in paragraph 1 are met; and	(a) the conditions laid down in paragraph 1 are met; and	(a) the conditions laid down in paragraph 1 are met; and G
Article 6(2), first subparagraph, point (b)				
Y 145	(b) that creditor knew, or should have known, that the debtor was unable to pay its mature debts or that a request for the opening of insolvency proceedings has been submitted.	(b) that creditor knew~~, or should have known,~~ that the debtor was unable to pay its mature debts or that a request for the opening of insolvency proceedings has been submitted~~.~~ ***or that, in the absence of a formal request, a resolution to commence insolvency proceedings had been made.***	(b) that creditor knew~~, or should have known,~~ that the debtor was **generally** unable to pay its ~~mature~~ debts ~~or~~**as they fall due in accordance with national law,** that a request for the opening of insolvency proceedings ~~has~~**had** been submitted~~.~~ **or that in the absence of a formal request a resolution to commence**	(b) that creditor knew~~, or should have known,~~ that the debtor was ***[generally]*** unable to pay its ~~*mature*~~ debts ~~*or*~~***as they fall due in accordance with national law,*** that a request for the opening of insolvency proceedings ~~*has*~~***had*** been submitted~~.~~ ***or that in the absence of a formal request a resolution to commence*** Y

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			insolvency proceedings had been made.	***insolvency proceedings had been made.*** EP counterproposal: Council text without "generally" Council cannot accept text without generally
Article 6(2), second subparagraph				
G 146	The creditor's knowledge referred to in the first subparagraph, point (b), shall be presumed if the creditor was a party closely related to the debtor.	The creditor's knowledge referred to in the first subparagraph, point (b), shall be presumed if the creditor was a party closely related to the debtor. ***That presumption shall be rebuttable.***	**For the purposes of** ~~The creditor's knowledge referred to in~~ the first subparagraph, point (b), **such knowledge** shall be presumed if the creditor was a party closely related to the debtor. **That presumption shall be rebuttable.**	***For the purposes of*** ~~*The creditor's knowledge referred to in*~~ the first subparagraph, point (b), ***such knowledge*** shall be presumed if the creditor was a party closely related to the debtor. ***That presumption shall be rebuttable.*** Text Origin: Council Mandate G
Article 6(3), first subparagraph				
147	3. By way of derogation from paragraphs 1 and 2, Member States shall ensure that the following legal acts cannot be declared void:	3. By way of derogation from paragraphs 1 and 2, Member States shall ensure that the following legal acts cannot be ~~*declared*~~ void***, voidable or unenforceable***:	3. By way of derogation from paragraphs 1 and 2, Member States ~~shall ensure~~**may provide** that the following **detrimental** legal acts ~~cannot be declared void~~**are not void, voidable or unenforceable pursuant to this Directive**:	3. By way of derogation from paragraphs 1 and 2, Member States shall ensure that the following legal acts cannot be ~~*declared*~~ void***, voidable or unenforceable***: EP counterproposal: EP text + detrimental

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				By way of derogation from paragraphs 1 and 2, Member States shall ensure that the following detrimental legal acts cannot be void, voidable or unenforceable: Council cannot accept "shall" provision; Article 6(3)(c) should be a mandatory ("shall") provision which already follows from Article 12. Therefore, Article 6(3)(c) could be deleted. Text Origin: EP Mandate
Article 6(3), first subparagraph, point (a)				
G 148	(a) legal acts performed directly against fair consideration to the benefit of the insolvency estate;	(a) legal acts performed directly against fair consideration to the benefit of the ~~*insolvency estate*~~***debtor's assets***;	(a) legal acts performed directly against fair consideration to the benefit of the ~~insolvency estate~~**debtor's assets**;	(a) legal acts performed directly against fair consideration to the benefit of the ~~*insolvency estate*~~***debtor's assets***; Text Origin: Council Mandate
Article 6(3), first subparagraph, point (b)				
G 149	(b) payments on bills of exchange or cheques where the law that governs bills of exchange or cheques bars the recipient's claims arising from the bill or cheque against other bill or cheque	(b) payments on bills of exchange or cheques where the law that governs bills of exchange or cheques bars the recipient's claims arising from the bill or cheque against other bill or cheque	(b) payments on bills of exchange or cheques where the law that governs bills of exchange or cheques bars the recipient~~'~~**'**s claims arising from the bill or cheque against other bill or cheque	(b) payments on bills of exchange or cheques where the law that governs bills of exchange or cheques bars the recipient~~'~~**'**s claims arising from the bill or cheque against other bill or cheque

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	debtors such as endorsers, the drawer, or drawee if it refuses the debtor's payment;	debtors such as endorsers, the drawer, or drawee if it refuses the debtor's payment;	debtors such as endorsers, the drawer, or **the** drawee if ~~it~~**the drawee** refuses the debtor~~'~~**'**s payment;	debtors such as endorsers, the drawer, or ***the*** drawee if ~~#~~***the drawee*** refuses the debtor~~'~~***'***s payment; Text Origin: Council Mandate
Article 6(3), first subparagraph, point (c)				
150	(c) legal acts that are not subject to avoidance actions in accordance with Directive 98/26/EC and Directive 2002/47/EC.	(c) legal acts that are not subject to avoidance actions in accordance with Directive 98/26/EC and Directive 2002/47/EC.	(c) legal acts that are not subject to avoidance actions in accordance with Directive 98/26/EC and Directive 2002/47/EC~~.~~**;**	(c) legal acts that are not subject to avoidance actions in accordance with Directive 98/26/EC and Directive 2002/47/EC~~.~~***;*** punctuation depends on final text Text Origin: Council Mandate
Article 6(3), first subparagraph, point (ca)				
150a			**(ca) the entering into netting arrangements, including close-out netting, in financial markets, energy markets or other commodity markets as well as legal acts supporting the operation of such arrangements.**	identical to line 150c
Article 6(3), first subparagraph, point (cb)				
150b		***(ca) where relevant, in accordance with national law,***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		legal acts the purpose of which is to satisfy or collateralise claims by social security authorities.		Council cannot accept EP text as it stands EP considers political
Article 6(3), first subparagraph, point (cc)				
G 150c		***(cb) the entering into netting arrangements, including close-out netting, in financial markets, energy markets or other commodity markets as well as legal acts supporting the operation of such arrangements.***		***(cc) the entering into netting arrangements, including close-out netting, in financial markets, energy markets or other commodity markets as well as legal acts supporting the operation of such arrangements.*** identical to line 150a Text Origin: EP Mandate
Article 6(3), second subparagraph				
Y 151	Member States shall ensure that where payments on bills of exchange or cheques are concerned as referred to in the first subparagraph, point (b), the amount paid on the bill or cheque shall be restituted by the last endorser or, if the latter endorsed the bill on account of a third party, by such party if the last endorser or the third party knew or should have known that the debtor was unable to pay its mature debts or	Member States shall ensure that where payments on bills of exchange or cheques are concerned as referred to in the first subparagraph, point (b), the amount paid on the bill or cheque shall be restituted by the last endorser or, if the latter endorsed the bill on account of a third party, by such party if the last endorser or the third party knew ~~*or should have known*~~ that the debtor was unable to pay its mature debts or	~~Member States shall ensure that where payments on bills of exchange or cheques are concerned as referred to in~~**For the purposes of** the first subparagraph, point (b), **Member States shall ensure that** the amount paid on the bill or cheque ~~shall~~ be restituted by the last endorser or, if the latter endorsed the bill on account of a third party, by such party**,** if the last endorser or the third party knew ~~or should~~	~~*Member States shall ensure that where payments on bills of exchange or cheques are concerned as referred to in*~~***For the purposes of*** the first subparagraph, point (b), ***Member States shall ensure that*** the amount paid on the bill or cheque ~~*shall*~~ be restituted by the last endorser or, if the latter endorsed the bill on account of a third party, by such party**,** if the last endorser or the third party knew ~~*or should have known*~~ that

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	that a request for the opening of insolvency proceedings has been submitted at the moment of endorsing the bill or having it endorsed. This knowledge is presumed if the last endorser or the third party was a party closely related to the debtor.	that a request for the opening of insolvency proceedings has been submitted at the moment of endorsing the bill or having it endorsed. This knowledge is presumed if the last endorser or the third party was a party closely related to the debtor. ***That presumption shall be rebuttable.***	~~have known~~ that the debtor was **generally** unable to pay its mature debts or that a request for the opening of insolvency proceedings ~~has~~**had** been submitted at the moment of endorsing the bill or having it endorsed. ~~This~~**Such** knowledge ~~is~~**shall be** presumed if the last endorser or the third party was a party closely related to the debtor.	the debtor was ***[generally]*** unable to pay its ~~*mature*~~ debts ***as they fall due*** or that a request for the opening of insolvency proceedings ~~*has*~~***had*** been submitted at the moment of endorsing the bill or having it endorsed. ~~*This*~~***Such*** knowledge ~~*is*~~***shall be*** presumed if the last endorser or the third party was a party closely related to the debtor. ***That presumption shall be rebuttable.*** EP counterproposal: Council text without "generally", "mature" changed to "as they fall due" and the last sentence from the EP. Council can accept: That presumption shall be rebuttable. Council cannot accept deletion of "generally" Text Origin: Council Mandate
Article 7				
G 152	Article 7 Legal acts against no or a manifestly inadequate consideration	Article 7 Legal acts against no or a manifestly inadequate consideration	Article 7 Legal acts against no **consideration or against**~~or a~~ manifestly inadequate consideration	Article 7 Legal acts against no ***consideration or against***~~*or a*~~ manifestly inadequate consideration G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: Council Mandate
Article 7(1)				
153	1. Member States shall ensure that legal acts of the debtor against no or a manifestly inadequate consideration can be declared void where they were perfected within a time period of one year prior to the submission of the request for the opening of insolvency proceedings or after the submission of such request.	1. Member States shall ensure that legal acts of the debtor against no or ~~a~~ manifestly inadequate consideration ~~can be declared void~~***are void, voidable or unenforceable*** where they were perfected within a time period of one year prior to the submission of the request for the opening of insolvency proceedings or***, in the absence of a formal*** ~~after the submission of such~~ request***, prior to the date on which a resolution to commence insolvency proceedings had been made. The payment of a third-party debt in a three-person relationship shall not be automatically considered as a legal act against no or manifestly inadequate consideration. Member States may provide that the fact that the enrichment resulting from a void legal act is no longer the property of the party which benefited from that legal act can be invoked if that***	1. Member States shall ensure that legal acts of the debtor against no **consideration or against**~~or~~ a manifestly inadequate consideration ~~can be declared void~~**are void, voidable or unenforceable** where they were perfected within ~~a time period of~~ one year prior to the submission of the request ~~for~~**that led to** the opening of insolvency proceedings**, or in the absence of such a formal request, the date of the resolution to commence insolvency proceedings,** or after the submission of such request **and before the opening of the insolvency proceedings**.	EP provided examples for second sentence EP ok in principle to move second sentence to recitals **Question to the Member States:** The EP agrees to put the part on third-party debt in a three-person relationship in a recital. Can the Member accept that the following text is put in a recital after line 23: "**It is advisable to apply a longer look-back period for legal acts carried out at an undervalue, which should be considered as a specific avoidance ground. Such acts include not only gifts or other donations, unless they are of a symbolic value, but also legal acts performed against an**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		party was not aware of the circumstances on which the avoidance action is based.		**unusually low consideration. Nevertheless, the payment of an outstanding debt by a third party in a three-person relationship, such as when the counter-performance owed by a parent company is paid by a subsidiary member of the same group of companies, should not automatically be considered as a legal act against no or manifestly inadequate consideration, since in such a case the value of the counter-performance can be proportionate and reciprocal to the performance of the debtor**"
Article 7(1), second subparagraph				
G	153a		**Member States may provide that the fact that the enrichment resulting from the legal act that has been declared void is no longer the property of the party which benefited from that legal act can be invoked if that party was not aware of the circumstances on which the avoidance action is based.**	***Member States may provide that the fact that the enrichment resulting from the void, voided or unenforceable legal act is no longer the property of the party which benefited from that legal act can be invoked if that party was not aware of the circumstances on which the avoidance action is based.*** G
Article 7(2)				

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	154	2. Paragraph 1 shall not apply to gifts and donations of symbolic value.	2. Paragraph 1 shall not apply to gifts and donations of symbolic value.	2. Paragraph 1 shall not apply to gifts and donations of symbolic value.	2. Paragraph 1 shall not apply to gifts and donations of symbolic value.	G
Article 7(3)						
G	155	3. Where several persons have submitted a request for the opening of insolvency proceedings against the same debtor, the point in time when the first admissible request is submitted shall be considered the beginning of the one-year period referred to in paragraph 1.	3. Where several persons have submitted a request for the opening of insolvency proceedings against the same debtor, the point in time when the first admissible request is submitted shall be considered the beginning of the one-year period referred to in paragraph 1.	*deleted*	*deleted*	G
Article 8						
G	*156*	Article 8 Legal acts intentionally detrimental to creditors	Article 8 Legal acts intentionally detrimental to creditors	Article 8 Legal acts intentionally detrimental to creditors	Article 8 Legal acts intentionally detrimental to creditors	G
Article 8(1), first subparagraph						
G	157	1. Member States shall ensure that legal acts by which the debtor has intentionally caused a detriment to the general body of creditors can be declared void where both of the following conditions are met:	1. Member States shall ensure that legal acts by which the debtor has intentionally caused a detriment to the general body of creditors ~~*can be declared void*~~***are void, voidable or unenforceable*** where both of the following conditions are met:	~~1.~~ Member States shall ensure that legal acts by which the debtor has intentionally caused a detriment to the general body of creditors ~~can be declared void~~**are void, voidable or unenforceable** where both of the following conditions are met:	1. Member States shall ensure that legal acts by which the debtor has intentionally caused a detriment to the general body of creditors ~~*can be declared void*~~***are void, voidable or unenforceable*** where both of the following conditions are met:	G
Article 8(1), first subparagraph, point (a)						
	158	(a) those acts were perfected either within a time period of four	(a) those acts were perfected either within a time period of	(a) those acts were perfected either within ~~a time period of~~		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	years prior to the submission of the request for the opening of insolvency proceedings or after the submission of such request;	~~four~~***three*** years prior to the submission of the request for the opening of insolvency proceedings or***, in the absence of a formal*** ~~*after the submission of such*~~ request***, prior to the date on which a resolution to commence insolvency proceedings had been made***;	~~four~~**two** years prior to the submission of the request ~~for~~**that led to** the opening of **the** insolvency proceedings **or, in the absence of such a formal request, of the date of the resolution to commence insolvency proceedings,** or after the submission of such request **and before the opening of the insolvency proceedings**;	Council suggests to discuss all the deadlines as a package. EP considers political
Article 8(1), first subparagraph, point (b)				
G 159	(b) the other party to the legal act knew or should have known of the debtor's intent to cause a detriment to the general body of creditors.	(b) the other party to the legal act knew ~~*or should have known*~~ of the debtor's intent to cause a detriment to the general body of creditors.	(b) the other party to the legal act knew ~~or should have known~~ of the debtor's intent to cause ~~a~~ detriment to the general body of creditors~~.~~	(b) the other party to the legal act knew ~~*or should have known*~~ of the debtor's intent to cause ~~*a*~~ detriment to the general body of creditors~~.~~ Text Origin: Council Mandate
Article 8(1), second subparagraph				
G 160	The knowledge referred to in the first subparagraph, point (b), shall be presumed if the other party to the legal act was a party closely related to the debtor.	The knowledge referred to in the first subparagraph, point (b), shall be presumed if the other party to the legal act was a party closely related to the debtor. ***That presumption shall be rebuttable.***	**For the purposes of** ~~The knowledge referred to in~~ the first subparagraph, point (b), **such knowledge** shall be presumed if the other party to the legal act was a party closely related to the debtor. **That presumption shall be rebuttable.**	***For the purposes of*** ~~*The knowledge referred to in*~~ the first subparagraph, point (b), ***such knowledge*** shall be presumed if the other party to the legal act was a party closely related to the debtor. ***That presumption shall be rebuttable.***

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	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: Council Mandate
Article 8(2)				
161	2. Where several persons have submitted a request for the opening of insolvency proceedings against the same debtor, the point in time when the first admissible request is submitted shall be considered the beginning of the four-year period referred to in paragraph 1, first subparagraph, point (a).	2. Where several persons have submitted a request for the opening of insolvency proceedings against the same debtor, the point in time when the first admissible request is submitted shall be considered the beginning of the ~~four-year~~***three-year*** period referred to in paragraph 1, first subparagraph, point (a).	*deleted*	*deleted*
Chapter 3				
162	Chapter 3 Consequences of avoidance actions	Chapter 3 Consequences of avoidance actions	Chapter 3 Consequences of avoidance actions	Chapter 3 Consequences of avoidance actions
Article 9				
163	Article 9 General consequences	Article 9 General consequences	Article 9 General consequences	Article 9 General consequences
Article 9(1)				
164	1. Member State shall ensure that the claims, rights or obligations resulting from legal acts that have been declared void pursuant to Chapter 2 of this Title may not be invoked to obtain	1. Member State shall ensure that the claims, rights or obligations resulting from legal acts that ~~have been declared void~~***are void, voidable or unenforceable*** pursuant to Chapter 2 of this Title may not be	1. Member State shall ensure that the claims, rights or obligations resulting from legal acts ~~that have been declared void~~**which are void, were voided or deemed unenforceable** pursuant to Chapter 2 ~~of this Title~~	1. Member State shall ensure that the claims, rights or obligations resulting from legal acts ~~that~~***which are void, unenforceable or*** have been ~~declared void~~***voided*** pursuant to Chapter 2 ~~of this Title may~~

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	satisfaction from the insolvency estate concerned.	invoked to obtain satisfaction from the insolvency estate concerned.	~~may not~~**cannot** be invoked to obtain satisfaction from the insolvency estate concerned.	~~not~~***cannot*** be invoked to obtain satisfaction from the insolvency estate concerned.
Article 9(2), first subparagraph				
G 165	2. Member States shall ensure that the party which benefitted from the legal act that has been declared void is obliged to compensate in full the insolvency estate concerned for the detriment caused to creditors by that legal act.	2. Member States shall ensure that the party which benefitted from the ***void, voidable or unenforceable*** legal act ~~*that has been declared void*~~ is obliged to compensate in full the insolvency estate concerned for the detriment caused to creditors by that legal act.	2. Member States shall ensure that the party which benefitted from the legal act that ~~has been declared void~~**is void, was voided or deemed unenforceable** is obliged to ~~compensate in full the insolvency estate concerned for the detriment caused to creditors by that legal act~~**return the benefits obtained in kind, or in their monetary equivalent**.	2. Member States shall ensure that the party which benefitted from the legal act that ***is void, unenforceable or*** has been ~~*declared void*~~***voided*** is obliged to ~~*compensate in full the insolvency estate concerned for the detriment caused to creditors by that legal act*~~***return the benefits obtained in kind, or in their monetary equivalent***. G
Article 9(2), second subparagraph				
166	The fact that the enrichment resulting from the legal act that has been declared void is not available anymore in the property of the party which benefited from that legal act ('lapse of enrichment') can only be invoked if that party was neither aware, nor should have been aware, of the circumstances on which the avoidance action is based.	The fact that the enrichment resulting from the ***void, voidable or unenforceable*** legal act ~~*that has been declared void*~~ is not available anymore in the property of the party which benefited from that legal act ('lapse of enrichment') can only be invoked if that party was ~~*neither*~~***not*** aware~~*, nor should have been aware,*~~ of the circumstances on which the avoidance action is based.	*deleted*	*Council to come back on:* *"Member States shall provide that if the enrichment resulting from the void, voidable or unenforceable legal act is not available anymore in the property of the party which benefited from that legal act ('lapse of enrichment') this latter fact can only be invoked by that party if she or he was not aware of the circumstances on which the avoidance action is based."*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				EP ok with Council proposal *Linked to line 153a. Should be in one place only. Remains open on the "shall" or "may" choice.*
Article 9(3)				
167	*3.* Member States shall ensure that the limitation period for all claims resulting from the legal act that can be declared void against the other party is three years from the date of the opening of insolvency proceedings.	3. Member States shall ensure that the limitation period for all claims resulting from the ***void, voidable or unenforceable*** legal act ~~*that can be declared void*~~ against the other party is three years from the date of the opening of insolvency proceedings.	*deleted*	*EP considers political*
Article 9(4)				
G *168*	*4.* Member States shall ensure that a claim to obtain full compensation pursuant to paragraph 2, first subparagraph, may be assigned to a creditor or a third party.	4. Member States shall ensure that a claim to obtain full compensation pursuant to paragraph 2, first subparagraph, may be assigned to a creditor or a third party.	4. Member States shall ensure that a claim ~~to obtain full compensation~~**for the return of benefits obtained in kind or in their monetary equivalent** pursuant to paragraph 2~~, first subparagraph, may~~ **can** be assigned to a creditor or a third party **under the rules governing the management of the insolvency debtor´s estate**.	4. Member States shall ensure that a claim ~~*to obtain full compensation*~~***for the return of benefits obtained in kind or in their monetary equivalent*** pursuant to paragraph 2~~*, first subparagraph, may*~~ ***can*** be assigned to a creditor or a third party. G
Article 9(5)				
G 169	5. Member States shall ensure that the party that has been obliged to compensate the	5. Member States shall ensure that the party that has been obliged to compensate the	5. Member States shall ensure that the party that has been obliged to ~~compensate the~~	5. Member States shall ensure that the party that has been obliged to ~~*compensate the*~~ G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	insolvency estate pursuant to paragraph 2, first subparagraph, cannot set-off this obligation with its claims against the insolvency estate.	insolvency estate pursuant to paragraph 2, first subparagraph, cannot set-off this obligation with its claims against the insolvency estate.	~~insolvency estate~~**return benefits obtained in kind or in their monetary equivalent** pursuant to paragraph 2~~, first subparagraph,~~ cannot ~~set-off this~~**offset that** obligation with its claims ~~against~~**that it would otherwise have to pursue in** the insolvency ~~estate~~**proceedings**.	~~*insolvency estate*~~***return benefits obtained in kind or in their monetary equivalent*** pursuant to paragraph 2~~*, first subparagraph,*~~ cannot ~~*set-off this*~~***offset that*** obligation with its claims ~~*against*~~***that it would otherwise have to pursue in*** the insolvency ~~*estate*~~***proceedings***. Text Origin: Council Mandate
Article 9(6)				
G 170	6. This Article is without prejudice to actions based on general civil and commercial law for compensation of damages suffered by creditors as a result of a legal act that can be declared void.	6. This Article is without prejudice to actions based on general civil and commercial law for compensation of damages suffered by creditors as a result of a legal act that can be declared void.	6. This Article is without prejudice to actions ~~based on general~~**governed by** civil and commercial law for compensation of damages suffered by creditors as a result of a legal act that ~~can be declared void~~**are void, voidable or unenforceable**.	6. This Article is without prejudice to actions ~~*based on general*~~***governed by*** civil and commercial law for compensation of damages suffered by creditors as a result of a legal act that ~~*can be declared void*~~***are void, voidable or unenforceable***. Text Origin: Council Mandate
Article 10				
G 171	Article 10 Consequences for the party which benefitted from the legal act that has been declared void	Article 10 Consequences for the party which benefitted from the ***void, voidable or unenforceable*** legal act ~~*that has been declared void*~~	Article 10 Consequences for the party ~~which~~**that** benefitted from the legal act that ~~has been declared~~	Article 10 Consequences for the party ~~*which*~~***that*** benefitted from the legal act that ~~*has been declared*~~

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			~~void~~**is void, voidable or unenforceable**	~~*void*~~***is void, voidable or unenforceable*** Text Origin: Council Mandate
Article 10(1)				
G 172	1. Member States shall ensure that if and to the extent that the party which benefitted from the legal act that has been declared void compensates the insolvency estate for the detriment caused by that legal act, any claim of that party which was satisfied with that legal act revives.	1. Member States shall ensure that if and to the extent that the party which benefitted from the ***void, voidable or unenforceable*** legal act ~~*that has been declared void*~~ compensates the insolvency estate for the detriment caused by that legal act, any claim of that party which was satisfied with that legal act revives.	~~1.~~ Member States shall ensure that if**,** and to the extent that**,** the party ~~which~~**that** benefitted from the legal act that ~~has been declared void compensates the insolvency estate for the detriment caused by that legal act~~**is void, voidable or unenforceable returns the benefits obtained in kind or in their monetary equivalent in accordance with Article 9**, any claim of that party which was satisfied with that legal act revives **in accordance with national law**.	~~*1.*~~ Member States shall ensure that if**,** and to the extent that**,** the party ~~*which*~~***that*** benefitted from the legal act that ~~*has been declared void compensates the insolvency estate for the detriment caused by that legal act*~~***is void, voidable or unenforceable returns the benefits obtained in kind or in their monetary equivalent in accordance with Article 9***, any claim of that party which was satisfied with that legal act revives ***in accordance with national law***. Text Origin: Council Mandate
Article 10(2), first subparagraph				
173	2. Member States shall ensure that any counter-performance of the party which benefitted from the legal act that has been declared void performed after or in an instant exchange for	2. Member States shall ensure that any counter-performance of the party which benefitted from the ***void, voidable or unenforceable*** legal act ~~*that has been declared void*~~ performed	*deleted*	*Council to possibly consider "may" provision* *EP insists on EP text*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	the performance of the debtor under that legal act shall be refunded from the insolvency estate to the extent that the counter-performance is still available in the estate in a form that can be distinguished from the rest of the insolvency estate or the insolvency estate is still enriched by its value.	after or in an instant exchange for the performance of the debtor under that legal act shall be refunded from the insolvency estate to the extent that the counter-performance is still available in the estate in a form that can be distinguished from the rest of the insolvency estate or the insolvency estate is still enriched by its value.		
Article 10(2), second subparagraph				
G *174*	In all cases not covered by the first subparagraph, the party which benefitted from the legal act that has been declared void may file claims for the compensation of the counter-performance. For the purposes of the ranking of claims in insolvency proceedings, this claim shall be deemed to have arisen before the opening of insolvency proceedings	In all cases not covered by the first subparagraph, the party which benefitted from the ***void, voidable or unenforceable*** legal act ~~*that has been declared void*~~ may file claims for the compensation of the counter-performance. For the purposes of the ranking of claims in insolvency proceedings, this claim shall be deemed to have arisen before the opening of insolvency proceedings.	*deleted*	In all cases not covered by the first subparagraph, the party which benefitted from the ***void, voidable or unenforceable*** legal act ~~*that has been declared void*~~ may file claims for the compensation of the counter-performance. ~~*For the purposes of the ranking of claims in insolvency proceedings, this claim shall be deemed to have arisen before the opening of insolvency proceedings*~~ Text Origin: EP Mandate
Article 11				
G 175	Article 11 Liability of third parties	Article 11 Liability of third parties	Article 11 Liability of third parties	Article 11 Liability of third parties

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
Article 11(1)					
G	176	1. Member States shall ensure that the rights laid down in Article 9 are enforceable against an heir or another universal successor of the party which benefitted from the legal act that has been declared void.	1. Member States shall ensure that ~~*the rights laid down in Article 9 are enforceable against*~~***Articles 9 and 10 are applicable to*** an heir or another universal successor of the party which benefitted from the ***void, voidable or unenforceable*** legal act ~~*that has been declared void*~~.	1. Member States shall ensure that ~~the rights laid down in Article 9 are enforceable against~~ ~~an~~ **Articles 9 and 10 are applicable to any** heir or another universal successor of the party ~~which~~**that** benefitted from the legal act that ~~has been declared void~~**is void, voidable or unenforceable**. **The extent of the liability of the heirs shall be governed by national law.**	1. Member States shall ensure that ~~*the rights laid down in Article 9 are enforceable against an*~~ ***Articles 9 and 10 are applicable to any*** heir or another universal successor of the party ~~*which*~~***that*** benefitted from the legal act that ~~*has been declared void*~~***is void, voidable or unenforceable. The extent of the liability of the heirs shall be governed by national law.*** Text Origin: Council Mandate	G
Article 11(2), first subparagraph					
G	177	2. Member States shall ensure that the rights laid down in Article 9 are also enforceable against any individual successor of the other party to the legal act that has been declared void if one of the following conditions is fulfilled:	2. Member States shall ensure that ~~*the rights laid down in*~~ Article 9 ~~*are also enforceable against*~~***is applicable to*** any individual successor of the other party to the ***void, voidable or unenforceable*** legal act ~~*that has been declared void*~~ if one of the following conditions is fulfilled:	2. Member States shall ensure that ~~the rights laid down in~~ Article 9 ~~are also enforceable against~~**is applicable to** any individual successor of the other party to the legal act that ~~has been declared void~~**is void, voidable or unenforceable** if ~~one of the following conditions is fulfilled:~~	2. Member States shall ensure that ~~*the rights laid down in*~~ Article 9 ~~*are also enforceable against*~~***is applicable to*** any individual successor of the other party to the legal act that ~~*has been declared void*~~***is void, voidable or unenforceable*** if ~~*one of the following conditions is fulfilled:*~~ Text Origin: Council Mandate	G
Article 11(2), first subparagraph, point (a)					

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
178	(a) the successor acquired the asset against no or a manifestly inadequate consideration;	(a) the successor acquired the asset against no or a manifestly inadequate consideration;	*deleted*	*deleted*
Article 11(2), first subparagraph, point (b)				
179	*(b)* the successor knew or should have known the circumstances on which the avoidance action is based.	(b) the successor knew ~~or should have known~~ the circumstances on which the avoidance action is based.	~~(b)~~ the successor knew ~~or should have known~~ the circumstances on which the avoidance action is based.	~~(b)~~ the successor knew ~~or should have known~~ the circumstances on which the avoidance action is based.
Article 11(2), second subparagraph				
180	The knowledge referred to in the first subparagraph, point (b), shall be presumed if the individual successor is a party closely related to the party which benefitted from the legal act that has been declared void.	The knowledge referred to in the first subparagraph, point (b), shall be presumed if the individual successor is a party closely related to the party which benefitted from the ***void, voidable or unenforceable*** legal act***. That presumption shall be rebuttable*** ~~that has been declared void~~.	*deleted*	The knowledge referred to in the first subparagraph, point (b), shall be presumed if the individual successor is a party closely related to the party which benefitted from the ***void, voidable or unenforceable*** legal act***. That presumption shall be rebuttable*** ~~that has been declared void~~. Council to check Text Origin: EP Mandate
Article 12				
181	Article 12 Relation to other instruments	Article 12 Relation to other instruments	Article 12 Relation to other instruments	Article 12 Relation to other instruments
Article 12(1)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
182	1. The provisions of this Title shall not affect Articles 17 and 18 of Directive (EU) 2019/1023.	1. The provisions of this Title shall not affect Articles 17 and 18 of Directive (EU) 2019/1023.	~~1.~~ ~~The provisions of~~ This Title ~~shall~~**does** not affect ~~Articles 17~~ **Directives 98/26/EC, 2002/47/EC** and ~~18 of Directive~~ (EU) 2019/1023.	~~*1.*~~ ~~*The provisions of*~~ This Title ~~*shall*~~***does*** not affect ~~*Articles 17*~~ ***Directives 98/26/EC, 2002/47/EC*** and ~~*18 of Directive*~~ (EU) 2019/1023. Text Origin: Council Mandate
Article 12(1a)				
182a			**Where, during preventive restructuring proceedings under Directive (EU) 2019/1023, the debtor becomes unable to pay its debts as they fall due and the benefit of a stay is kept in place in accordance with Article 7(3) of that Directive, Member States may provide that, with respect to legal acts performed during the stay, a party's knowledge that the debtor was generally unable to pay its debts as they fall due in accordance with national law does not give rise to avoidance actions under Article 6 (2) of this Directive.**	EP counterproposal: without "generally" Council cannot accept deletion of "generally" Text Origin: Council Mandate
Title III				
183	Title III	Title III	Title III	Title III

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	TRACING ASSETS BELONGING TO THE INSOLVENCY ESTATE	TRACING ASSETS BELONGING TO THE INSOLVENCY ESTATE	TRACING ASSETS BELONGING TO THE INSOLVENCY ESTATE	TRACING ASSETS BELONGING TO THE INSOLVENCY ESTATE
Chapter 1				
G 184	Chapter 1 Access to bank account information by designated courts	Chapter 1 Access to bank account information by designated courts ***and administrative authorities***	Chapter 1 Access **by designated courts and authorities** to bank account information ~~by designated courts~~	Chapter 1 Access ***by designated courts and administrative authorities*** to bank account information ~~*by designated courts*~~
Article 13				
G 185	Article 13 Designated courts	Article 13 Designated courts ***and administrative authorities***	Article 13 Designated courts **and authorities**	Article 13 Designated courts ***and administrative authorities*** Text Origin: EP Mandate
Article 13(1)				
G 186	1. Each Member State shall designate, among its courts that are competent to hear cases related to procedures in restructuring, insolvency or discharge of debt, the courts empowered to access and search its national centralised bank account registry established pursuant to Article 32a of Directive (EU) 2015/849 ('designated courts').	1. Each Member State shall designate, ~~*among its courts that are competent to hear cases related to procedures in restructuring, insolvency or discharge of debt,*~~ the courts ***or administrative authorities that are*** empowered to access and search ~~*its national centralised*~~ bank account ~~*registry established pursuant to Article 32a of*~~	1. Each Member State shall designate~~, among its~~ courts ~~that are competent to hear cases related to procedures in restructuring, insolvency or discharge of debt, the courts empowered~~**or administrative authorities as authorised** to access and search its national ~~centralised~~ bank account ~~registry established pursuant to Article 32a of Directive (EU) 2015/849~~**registers**	1. Each Member State shall designate~~, among its courts that are competent to hear cases related to procedures in restructuring, insolvency or discharge of debt,~~ the courts ~~*empowered*~~***or administrative authorities that are authorised*** to access and search its national ~~*centralised*~~ bank account ~~*registry established pursuant*~~***registers and those authorized to access and***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		~~*Directive (EU) 2015/849 ('designated courts').*~~***registers***	**and electronic data retrieval systems** ('designated courts **or authorities**').	***search cross-border according*** to Article ~~*32a of Directive (EU) 2015/849*~~***14(2)*** ('designated courts ***or administrative authorities***'). In connection to this, it should also be mentioned in the recitals that Member State may designate the same courts or administrative authorities that are authorised to access and search its national bank account registers and cross-border according to Article 14(2).
Article 13(2)				
187	2. Each Member State shall notify the Commission of its designated courts by [6 months from transposition date], and shall notify the Commission of any amendment thereto. The Commission shall publish the notifications in the Official Journal of the European Union.	2. Each Member State shall notify the Commission of its designated courts ***or administrative authorities by ...*** ~~*by*~~ [~~*6*~~***3*** months from transposition date], and shall ***immediately*** notify the Commission of any amendment thereto. The Commission shall publish the notifications in the Official Journal of the European Union ***and on the European e-Justice Portal***.	2. Each Member State shall notify the Commission of its designated courts **or authorities by …** ~~by~~ [~~6~~**42** months from ~~transposition date~~**the date of entry into force of this Directive**], and shall notify the Commission of any ~~amendment~~**changes** thereto. The Commission shall publish the notifications in the ~~Official Journal of the~~ European ~~Union.~~**e-Justice Portal.**	EP counterproposal Each Member State shall notify the Commission of its designated courts or administrative authorities by ... [x months from transposition date], and shall notify the Commission of any changes thereto without undue delay. The Commission shall publish the notifications in the Official Journal of the European Union and on e-Justice Portal. Council cannot accept OJ inclusion EP considers political
Article 14				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 188	Article 14 Access to and searches of bank account information by designated courts	Article 14 Access to and searches of bank account information by designated courts ***and administrative authorities***	Article 14 Access to and searches of bank account information by designated courts **and authorities**	Article 14 Access to and searches of bank account information by designated courts ***and administrative authorities*** Text Origin: EP Mandate
Article 14(1)				
G 189	1. Member States shall ensure that, upon request of the insolvency practitioner appointed in ongoing insolvency proceedings, the designated courts have the power to access and search, directly and immediately, bank account information listed in Article 32a(3) of Directive (EU) 2015/849, where necessary for the purposes of identifying and tracing assets belonging to the insolvency estate of the debtor in that proceedings, including those subject to avoidance actions.	1. Member States shall ensure that, upon request of the insolvency practitioner appointed in ongoing insolvency proceedings, ***including interim proceedings,*** the designated courts ***or administrative authorities*** have the power to access and search, directly and immediately, bank account information ~~*listed in Article 32a(3) of Directive (EU) 2015/849*~~, where necessary for the purposes of identifying and tracing assets belonging to the insolvency estate of the debtor in that proceedings, including those subject to avoidance actions.	1. Member States shall ensure that~~, upon request of the insolvency practitioner appointed in ongoing insolvency proceedings,~~ the designated courts **or authorities** have the power to access and search, directly and immediately, bank account information ~~listed in Article 32a(3) of Directive (EU) 2015/849,~~ where ~~necessary for the purposes of identifying and tracing assets belonging to the insolvency estate of the debtor in that proceedings, including those subject to avoidance actions.~~**the following conditions are met:**	1. Member States shall ensure that~~*, upon request of the insolvency practitioner appointed in ongoing insolvency proceedings,*~~ the designated courts ***or administrative authorities*** have the power to access and search, directly and immediately, bank account information ~~*listed in Article 32a(3) of Directive (EU) 2015/849,*~~ where ~~*necessary for the purposes of identifying and tracing assets belonging to the insolvency estate of the debtor in that proceedings, including those subject to avoidance actions.*~~***the following conditions are met:*** Text Origin: Council Mandate
Article 14(1), point (a)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 189a			**(a) the insolvency practitioner appointed in ongoing insolvency proceedings, including interim proceedings, requests bank account information; and**	***(a) the insolvency practitioner appointed in ongoing insolvency proceedings, including interim proceedings, requests bank account information; and*** Text Origin: Council Mandate
Article 14(1), point (b)				
G 189b			**(b) the bank account information is necessary for the purposes of identifying and tracing assets belonging to the insolvency estate in those proceedings, as well as assets subject to avoidance actions.**	***(b) the bank account information is necessary for the purposes of identifying and tracing assets belonging to the insolvency estate in those proceedings, as well as assets subject to avoidance actions.*** Text Origin: Council Mandate
Article 14(2)				
G 190	2. Member States shall ensure that, upon request of the insolvency practitioner appointed in ongoing insolvency proceedings, the designated courts have the power to access and search, directly and immediately, bank account information in other Member States available through the bank account registers (BAR)	2. Member States shall ensure that, upon request of the insolvency practitioner appointed in ongoing insolvency proceedings, ***including interim proceedings,*** the designated courts ***or administrative authorities*** have the power to access and search, directly and immediately, bank account information in other	2. **In facilitating cross-border access,** Member States shall ensure that~~, upon request of the insolvency practitioner appointed in ongoing insolvency proceedings,~~ the designated courts **or authorities** have the power to access and search, directly and immediately, bank account information in other Member	2. ***In facilitating cross-border access,*** Member States shall ensure that~~, upon request of the insolvency practitioner appointed in ongoing insolvency proceedings,~~ the designated courts ***or administrative authorities*** have the power to access and search, directly and immediately, bank account information in other

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	single access point set up pursuant to Article XX of Directive (EU) YYYY/XX [OP: the new Anti-Money Laundering Directive] where necessary for the purposes of identifying and tracing assets belonging to the insolvency estate of the debtor in that proceedings, including those subject to avoidance actions.	Member States available through the bank account registers ***interconnection system*** (~~*BAR*~~***BARIS***) ~~*single access point set up pursuant to*~~***referred to in*** Article ~~*XX*~~***16(6)*** of Directive (EU) ~~*YYYY/XX [OP: the new Anti-Money Laundering Directive]*~~***2024/1640,*** where necessary for the purposes of identifying and tracing assets belonging to the insolvency estate of the debtor in that ***those*** proceedings, including those ***assets*** subject to avoidance actions.	States available through the bank account registers **interconnection system** (~~BAR~~**BARIS**) ~~single access point set up pursuant to~~**referred to in** Article ~~XX~~**16(6)** of Directive (EU) ~~YYYY/XX [OP: the new Anti-Money Laundering Directive] where necessary for the purposes of identifying and tracing assets belonging to the insolvency estate~~**2024/1640 of the European Parliament and** of the ~~debtor in that proceedings, including those subject to avoidance actions.~~**Council[1] where the following conditions are met:** **1. Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849 (OJ L, 2024/1640, 19.6.2024, ELI:**	Member States available through the bank account registers ***interconnection system*** (~~*BAR*~~***BARIS***) ~~*single access point set up pursuant to*~~***referred to in*** Article ~~*XX*~~***16(6)*** of Directive (EU) ~~*YYYY/XX [OP: the new Anti-Money Laundering Directive] where necessary for the purposes of identifying and tracing assets belonging to the insolvency estate*~~***2024/1640 of the European Parliament and*** of the ~~*debtor in that proceedings, including those subject to avoidance actions.*~~***Council[1] where the following conditions are met:*** ***1. Directive (EU) 2024/1640 of the European Parliament and of the Council of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849 (OJ L, 2024/1640,***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			http://data.europa.eu/eli/dir/2024/1640/oj).	***19.6.2024, ELI: http://data.europa.eu/eli/dir/2024/1640/oj).*** Text Origin: Council Mandate
Article 14(2), point (a)				
G	190a		**(a) the insolvency practitioner appointed in ongoing insolvency proceedings, including interim proceedings, requests bank account information in other Member States; and**	***(a) the insolvency practitioner appointed in ongoing insolvency proceedings, including interim proceedings, requests bank account information in other Member States; and*** Text Origin: Council Mandate
Article 14(2), point (b)				
G	190b		**(b) the bank account information is necessary for the purposes of identifying and tracing assets belonging to the insolvency estate of the debtor in those proceedings, as well as assets subject to avoidance actions.**	***(b) the bank account information is necessary for the purposes of identifying and tracing assets belonging to the insolvency estate of the debtor in those proceedings, as well as assets subject to avoidance actions.*** Text Origin: Council Mandate
Article 14(3)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
191	3. The additional information that Member States consider essential and include in the centralised bank account registries pursuant to Article 32a(4) of Directive (EU) 2015/849 shall not be accessible and searchable by designated courts.	3. The additional information that Member States consider essential and include in the ~~centralised~~ bank account ~~registries~~***registers*** pursuant to Article ~~32a(4)~~***16(5)*** of Directive (EU) ~~2015/849~~***2024/1640*** shall not be accessible ~~and~~***or*** searchable by designated courts ***or administrative authorities***.	3. ~~The~~**Information** additional ~~information~~**to that referred to in paragraphs 1 and 2** that Member States ~~consider~~**deem** essential and include in the ~~centralised~~ bank account ~~registries~~**registers and electronic data retrieval systems** pursuant to Article ~~32a(4)~~**16(5)** of Directive (EU) ~~2015/849~~**2024/1640** shall not be accessible and searchable by designated courts **or authorities**.	3. ~~The~~***Information*** additional ~~information~~***to that referred to in paragraphs 1 and 2*** that Member States ~~consider~~***deem*** essential and include in the ~~centralised~~ bank account ~~registries~~***registers*** pursuant to Article ~~32a(4)~~***16(5)*** of Directive (EU) ~~2015/849~~***2024/1640*** shall not be accessible and searchable by designated courts ***or administrative authorities***.
Article 14(3a)				
191a			**3a. Member States shall ensure that the designated courts or authorities referred to in Article 13 or other competent courts or authorities verify whether the conditions referred to in paragraphs 1 and 2 are met. If those conditions are met, Member States shall ensure that the designated courts or authorities transmit the relevant bank account information obtained as a result of the access and search pursuant to paragraphs 1 and 2 to the insolvency practitioner who requested it.**	*deleted* *almost identical to 191b* *- Council "courts and authorities referred to in Article 13"* *- Council "as a result of" / EP "by"* *- EP "administrative authorities"*

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 14(3b)				
191b		***3a. Member States shall ensure that the designated courts or administrative authorities or other competent courts or authorities verify whether the conditions referred to in paragraphs 1 and 2 are met. If those conditions are met, Member States shall ensure that the designated courts or administrative authorities transmit the relevant bank account information obtained by accessing and searching bank account information pursuant to paragraphs 1 and 2 to the insolvency practitioner who requested it.***		***3b. Member States shall ensure that the designated courts or administrative authorities or other competent courts or authorities verify whether the conditions referred to in paragraphs 1 and 2 are met. If those conditions are met, Member States shall ensure that the designated courts or administrative authorities transmit the relevant bank account information obtained by accessing and searching bank account information pursuant to paragraphs 1 and 2 to the insolvency practitioner who requested it.*** Text Origin: EP Mandate
Article 14(3c)				
191c			**3b. Access and searches pursuant to this Article shall be without prejudice to national procedural safeguards and Union and national rules on the protection of personal data. Member States shall ensure that bank account information**	*deleted* *almost identical to line 191d Council - "to this article" / EP "paragraph 1 and 2"*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
			obtained pursuant to paragraphs 1 and 2 is processed, including by insolvency practitioners, only for the purposes for which it was obtained.		
Article 14(3d)					
G *191d*		***3b. Access and searches pursuant to paragraphs 1 and 2 shall be without prejudice to national procedural safeguards and Union and national rules on the protection of personal data. Member States shall ensure that bank account information obtained pursuant to paragraphs 1 and 2 is processed only for the purposes for which it was obtained, including where it is processed by insolvency practitioners.***		***3d. Access and searches pursuant to paragraphs 1 and 2 shall be without prejudice to national procedural safeguards and Union and national rules on the protection of personal data. Member States shall ensure that bank account information obtained pursuant to paragraphs 1 and 2 is processed only for the purposes for which it was obtained, including where it is processed by insolvency practitioners.*** Text Origin: EP Mandate	G
Article 14(3e)					
G 191e			**3c. Member States shall ensure that insolvency practitioners, when processing bank account information obtained pursuant to**	identical to line 191f	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			paragraphs 1 and 2, have in place relevant internal procedures for appropriate management of confidential information.	
Article 14(3c)				
191f		***3c. Member States shall ensure that insolvency practitioners, when processing bank account information obtained pursuant to paragraphs 1 and 2, have in place relevant internal procedures for the appropriate management of confidential information.***		
Article 14(4)				
192	4. For the purpose of paragraphs 1 and 2, access and searches shall be considered to be direct and immediate, inter alia, where the national authorities operating the central bank account registries transmit the bank account information expeditiously by an automated mechanism to the designated courts, provided that no intermediary institution is able to interfere with the requested data or the information to be provided.	4. For the purpose of paragraphs 1 and 2, access ***to*** and searches ***of bank account information*** shall be considered to be direct and immediate, inter alia, where the national authorities operating the ~~central~~ bank account ~~registries~~***registers*** transmit the bank account information expeditiously by an automated mechanism to the designated courts ***or administrative authorities***, provided that no intermediary institution is able to	4. For the ~~purpose~~**purposes** of paragraphs 1 and 2, access **to** and searches **of bank account information** shall be considered to be direct and immediate, inter alia, where the national authorities operating the ~~central~~ bank account ~~registries~~**registers and electronic data retrieval systems** transmit the bank account information expeditiously by an automated mechanism to the designated courts **or authorities**, provided that no intermediary institution is able to interfere with the requested	4. For the ~~purpose~~***purposes*** of paragraphs 1 and 2, access ***to*** and searches ***of bank account information*** shall be considered to be direct and immediate, inter alia, where the national authorities operating the ~~central~~ bank account ~~registries~~***registers*** transmit the bank account information expeditiously by an automated mechanism to the designated courts ***or administrative authorities***, provided that no intermediary institution is able to

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		interfere with the requested data or the information to be provided.	data or the information to be provided.	interfere with the requested data or the information to be provided.
Article 15				
193	Article 15 Conditions for access and for searches by designated courts	Article 15 Conditions for access ***to*** and for searches ***of bank account information*** by designated courts ***and administrative authorities***	Article 15 Conditions for access **to** and ~~for~~ searches **of bank account information** by designated courts **and authorities**	Article 15 Conditions for access ***to*** and ~~*for*~~ searches ***of bank account information*** by designated courts ***and administrative authorities***
Article 15(1)				
194	1. Access to and searches of bank account information in accordance with Article 14 shall be performed only on a case-by-case basis by the staff of each designated court that have been specifically appointed and authorised to perform those tasks.	1. Access to and searches of bank account information in accordance with Article 14 shall be performed only on a case-by-case basis by the staff of each designated court ***or administrative authority*** that have been specifically appointed and authorised to perform those tasks.	1. **Member States shall ensure that** access to and searches of bank account information in accordance with Article 14 shall be performed only on a case-by-case basis by the staff of each designated court **or authority that has**~~that have~~ been specifically appointed and authorised to perform those tasks.	1. ***Member States shall ensure that*** access to and searches of bank account information in accordance with Article 14 ~~*shall be*~~***is*** performed only on a case-by-case basis by the staff of each designated court ***or administrative authority that has***~~*that have*~~ been specifically appointed and authorised to perform those tasks.
Article 15(2)				
195	2. Member States shall ensure that:	2. Member States shall ensure that:	2. Member States shall ensure that:	2. Member States shall ensure that:
Article 15(2), point (a)				
196	(a) the staff of the designated courts maintain high professional standards of confidentiality and data protection, and that they are of high integrity and are appropriately skilled;	(a) the staff ~~*of the designated courts*~~***referred to in paragraph 1*** maintain high professional standards of confidentiality and data protection, and that they are	(a) the staff ~~of the designated courts~~**referred to in paragraph 1** maintain high professional standards of confidentiality and data protection, and ~~that they~~ are	(a) the staff ~~*of the designated courts*~~***referred to in paragraph 1*** maintain high professional standards of confidentiality and data protection~~*, and that they*~~ ***and***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		of high integrity and are appropriately skilled;	of high integrity and ~~are~~ appropriately skilled;	are of high integrity and ~~*are*~~ appropriately skilled; Text Origin: Council Mandate
Article 15(2), point (b)				
G 197	(b) technical and organisational measures are in place to ensure the security of the data to high technological standards for the purposes of the exercise by designated courts of the power to access and search bank account information in accordance with Article 14.	(b) technical and organisational measures are in place to ensure the security of the data to high technological standards for the purposes of the exercise by designated courts ***and administrative authorities*** of the power to access and search bank account information in accordance with Article 14.	(b) technical and organisational measures are in place to ensure the security of the data to high technological standards for the purposes of the exercise by designated courts **and authorities** of the power to access and search bank account information**,** in accordance with Article 14.	(b) technical and organisational measures are in place to ensure the security of the data to high technological standards for the purposes of the exercise by designated courts ***and administrative authorities*** of the power to access and search bank account information in accordance with Article 14. Text Origin: EP Mandate
Article 16				
G 198	Article 16 Monitoring access and searches by designated courts	Article 16 Monitoring access ***to*** and searches ***of bank account information*** by designated courts ***and administrative authorities***	Article 16 Monitoring access **to** and searches **of bank account information** by designated courts **and authorities**	Article 16 Monitoring access ***to*** and searches ***of bank account information*** by designated courts ***and administrative authorities*** Text Origin: EP Mandate
Article 16(1)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
199	1. Member States shall provide that the authorities operating the centralised bank account registries ensure that logs are kept for each time a designated court accesses and searches bank account information. The logs shall include, in particular, the following:	1. Member States shall provide that the authorities operating the centralised bank account registries ensure that logs are kept for each time a designated court accesses and searches bank account information. The logs shall include, in particular, the following:	1. Member States shall provide that the authorities operating the ~~centralised~~ bank account ~~registries~~**registers and electronic data retrieval systems** ensure that logs are kept for each time a designated court **or authority** accesses and searches bank account information. The logs shall include, in particular, the following:	1. Member States shall provide that the authorities operating the ~~*centralised*~~ bank account ~~*registries*~~***registers*** ensure that logs are kept for each time a designated court ***or administrative authority*** accesses and searches bank account information. The logs shall include, in particular, the following:
Article 16(1), point (a)				
200	(a) the case reference number;	(a) the case reference number;	(a) the case reference number;	(a) the case reference number;
Article 16(1), point (b)				
201	(b) the date and time of the query or search;	(b) the date and time of the query or search;	(b) the date and time of the query or search;	(b) the date and time of the query or search;
Article 16(1), point (c)				
202	(c) the type of data used to launch the query or search;	(c) the type of data used to launch the query or search;	(c) the type of data used to launch the query or search;	(c) the type of data used to launch the query or search;
Article 16(1), point (d)				
203	(d) the unique identifier of the results;	(d) the unique identifier of the results;	(d) the unique identifier of the results;	(d) the unique identifier of the results;
Article 16(1), point (e)				
204	(e) the name of the designated court consulting the registry;	(e) the name of the designated court ~~*consulting the registry*~~***or administrative authority accessing or searching the bank account register***;	(e) the name of the designated court ~~consulting the registry~~**or authority accessing or searching the register or electronic data retrieval system**;	(e) the name of the designated court ~~*consulting the registry*~~***or administrative authority accessing or searching the register***;

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 16(1), point (f)				
205	(f) the unique user identifier of the staff member of the designated court who made the query or performed the search and, where applicable, of the judge who ordered the query or search and, as far as possible, the unique user identifier of the recipient of the results of the query or search.	(f) the unique user identifier of the staff member of the designated court ***or administrative authority*** who made the query ~~*or performed the search*~~ and, where applicable, of the judge ***or the official*** who ordered the query or search and~~, as far as possible, the unique user identifier~~ of the ~~*recipient of the results of the query or search*~~***requesting insolvency practitioner***.	(f) the unique user identifier of the staff member of the designated court **or authority** who made the query ~~or performed the search~~ and, where applicable, of the judge **or official** who ordered the query or search and, ~~as far as possible~~**where available**, ~~the unique user identifier~~ of the ~~recipient of the results of the query or search~~**requesting insolvency practitioner**.	(f) the unique user identifier of the staff member of the designated court ***or administrative authority*** who made the query ~~*or performed the search*~~ and, where applicable, of the judge ***or official*** who ordered the query or search and, ~~*as far as possible*~~***where available***~~*, the unique user identifier*~~ of the ~~*recipient of the results of the query or search*~~***requesting insolvency practitioner***. Text Origin: Council Mandate
Article 16(2)				
206	2. The authorities operating the centralised bank account registries shall check the logs referred to in paragraph 1 regularly.	2. The authorities operating the ~~*centralised*~~ bank account ~~*registries*~~***registers*** shall check the logs referred to in paragraph 1 regularly.	2. The authorities operating the ~~centralised~~ bank account ~~registries~~**registers and electronic data retrieval systems** shall check the logs referred to in paragraph 1 regularly.	2. The authorities operating the ~~*centralised*~~ bank account ~~*registries*~~***registers systems*** shall check the logs referred to in paragraph 1 regularly.
Article 16(3)				
207	3. The logs referred to in paragraph 1 shall be used only for the monitoring of compliance with this Directive and obligations stemming from the applicable	3. The logs referred to in paragraph 1 shall be used only for the monitoring of compliance with this Directive and obligations stemming from the applicable	3. The logs referred to in paragraph 1 shall be used only ~~for the monitoring of~~**to monitor** compliance with this Directive and ~~obligations stemming from~~	3. The logs referred to in paragraph 1 shall be used only ~~*for the monitoring of*~~***to monitor*** compliance with this Directive and ~~*obligations stemming from the*~~***with***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	Union legal instruments on data protection. The monitoring shall include verifying the admissibility of a request and the lawfulness of personal data processing, and whether the integrity and confidentiality of personal data is ensured. The logs shall be protected by appropriate measures against unauthorised access and shall be erased five years after their creation, unless they are required for monitoring procedures that are ongoing.	Union legal instruments on data protection. The monitoring shall include verifying the admissibility of a request and the lawfulness of personal data processing, and whether the integrity and confidentiality of personal data is ensured. The logs shall be protected by appropriate measures against unauthorised access and shall be erased five years after their creation, unless they are required for monitoring procedures that are ongoing.	~~the~~**with** applicable Union ~~legal instruments~~**law** on data protection. ~~The monitoring shall include verifying the admissibility of a request and the lawfulness of personal data processing, and whether the integrity and confidentiality of personal data is ensured~~. The logs shall be protected by appropriate measures against unauthorised access and shall be erased five years after their creation, unless they are required for monitoring procedures that are ongoing.	applicable Union ~~*legal instruments*~~***law*** on data protection. ***[***The monitoring shall include verifying the admissibility of a request and the lawfulness of personal data processing, and whether the integrity and confidentiality of personal data is ensured.***]*** The logs shall be protected by appropriate measures against unauthorised access and shall be erased five years after their creation, unless they are required for monitoring procedures that are ongoing. Council cannot accept part between brackets EP part in brackets important
Chapter 2				
G	208 Chapter 2 Access by insolvency practitioners to beneficial ownership information	208 Chapter 2 Access by insolvency practitioners to beneficial ownership information	208 Chapter 2 Access by insolvency practitioners to beneficial ownership information	208 Chapter 2 Access by insolvency practitioners to beneficial ownership information G
Article 17				
G	209 Article 17 Access by insolvency practitioners to beneficial ownership information	209 Article 17 Access by insolvency practitioners to beneficial ownership information	209 Article 17 Access by insolvency practitioners to beneficial ownership information	209 Article 17 Access by insolvency practitioners to beneficial ownership information G
Article 17(1)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 210	1. Member States shall ensure that insolvency practitioners, when identifying and tracing assets relevant for the insolvency proceedings for which they are appointed, have timely access to the information referred to in Article 30(5), second subparagraph, and in Article 31(4), second subparagraph, of Directive (EU) 2015/849 which is held in the beneficial ownership registers set up in the Member States and is accessible through the system of interconnection of beneficial ownership registers set up in accordance with Article 30(10) and Article 31(9) of Directive (EU) 2015/849.	1. Member States shall ensure that insolvency practitioners, when identifying and tracing assets relevant for the insolvency proceedings for which they are appointed, have timely access to the information ~~*referred to in Article 30(5), second subparagraph, and in Article 31(4), second subparagraph, of Directive (EU) 2015/849 which is*~~***on the beneficial owners of legal entities and of legal arrangements*** held in ~~*the*~~***central*** beneficial ownership registers ~~*set up in the Member States and is accessible through the system of interconnection of*~~***, and that such access is provided without alerting the entity, the legal arrangement or the*** beneficial ~~*ownership registers set up in accordance with Article 30(10) and Article 31(9) of Directive (EU) 2015/849*~~***owner concerned***.	~~1.~~ Member States shall ensure that ~~insolvency practitioners, when~~**, for the purposes of** identifying and tracing assets relevant for the insolvency proceedings for which they are appointed, **insolvency practitioners** have timely access to the **following** information ~~referred to in Article 30(5), second subparagraph, and in Article 31(4), second subparagraph, of Directive (EU) 2015/849 which is~~**on the beneficial owners of legal entities and of legal arrangements** held in ~~the~~**interconnected central** beneficial ownership registers ~~set up in the Member States and is accessible through the system of interconnection of~~**, and that such access is provided without alerting the entity, the arrangement or the** beneficial ~~ownership registers set up in accordance with Article 30(10) and Article 31(9) of Directive (EU) 2015/849.~~**owner concerned:**	~~*1.*~~ Member States shall ensure that ~~*insolvency practitioners, when*~~***, for the purposes of*** identifying and tracing assets relevant for the insolvency proceedings for which they are appointed, ***insolvency practitioners*** have timely access to the ***following*** information ~~*referred to in Article 30(5), second subparagraph, and in Article 31(4), second subparagraph, of Directive (EU) 2015/849 which is*~~***on the beneficial owners of legal entities and of legal arrangements*** held in ~~*the*~~***interconnected central*** beneficial ownership registers ~~*set up in the Member States and is accessible through the system of interconnection of*~~***, and that such access is provided without alerting the entity, the arrangement or the*** beneficial ~~*ownership registers set up in accordance with Article 30(10) and Article 31(9) of Directive (EU) 2015/849.*~~***owner concerned:*** Text Origin: Council Mandate	G
Article 17(1a)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 210a			**(a) the name of the beneficial owner;**	***(a) the name of the beneficial owner;*** Text Origin: Council Mandate
Article 17(1b)				
G 210b			**(b) the month and year of birth of the beneficial owner;**	***(b) the month and year of birth of the beneficial owner;*** Text Origin: Council Mandate
Article 17(1c)				
G 210c			**(c) the country of residence and nationality or nationalities of the beneficial owner;**	***(c) the country of residence and nationality or nationalities of the beneficial owner;*** Text Origin: Council Mandate
Article 17(1d)				
G 210d			**(d) for beneficial owners of legal entities, the nature and extent of the beneficial interest held;**	***(d) for beneficial owners of legal entities, the nature and extent of the beneficial interest held;*** Text Origin: Council Mandate
Article 17(1e)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 210e			**(e) for beneficial owners of express trusts or similar legal arrangements, the nature of their beneficial ownership.**	***(e) for beneficial owners of express trusts or similar legal arrangements, the nature of their beneficial ownership.*** Text Origin: Council Mandate
Article 17(2)				
211	2. Access to the information by the insolvency practitioners in accordance with paragraph 1 of this Article shall constitute a legitimate interest, whenever it is necessary for identifying and tracing assets belonging to the insolvency estate of the debtor in ongoing insolvency proceedings and is limited to the following information:	2. Access to the information by the insolvency practitioners in accordance with paragraph 1 of this Article shall constitute a legitimate interest, whenever it is necessary for identifying and tracing assets belonging to the insolvency estate of the debtor in ongoing insolvency proceedings and is limited to the following information:	*deleted*	*EP counterproposal* *Access to the information by the insolvency practitioners in accordance with paragraph 1 of this Article shall constitute a legitimate interest, whenever it is necessary for identifying and tracing assets belonging to the insolvency estate of the debtor in ongoing insolvency proceedings.* *Council cannot accept counterproposal*
Article 17(2), point (a)				
G *212*	*(a)* the name, the month, the year of birth, the country of residence and the nationality of the legal owner;	(a) the name, the month, the year of birth, the country of residence and the nationality ***or nationalities*** of the ~~*legal*~~***beneficial*** owner;	*deleted*	*deleted* *linked to lines 210a-210e* G
Article 17(2), point (aa)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
212a		***(aa) for beneficial owners of legal entities, the nature and extent of the beneficial interest held;***		*deleted* *linked to lines 210a-210e*
Article 17(2), point (ab)				
212b		***(ab) for beneficial owners of express trusts or similar legal arrangements, the nature of their beneficial ownership.***		linked to lines 210a-210e
Article 17(2), point (b)				
213	(b) the nature and the extent of the beneficial interest held.	*deleted*	*deleted*	*deleted*
Chapter 3				
214	Chapter 3 Access by insolvency practitioners to national asset registers	Chapter 3 Access by insolvency practitioners to national ~~*asset*~~ registers ***and databases***	Chapter 3 Access by insolvency practitioners to national ~~asset~~ registers **and databases**	Chapter 3 Access by insolvency practitioners to national ~~*asset*~~ registers ***and databases*** Text Origin: Council Mandate
Article 18				
215	Article 18 Access by insolvency practitioners to national asset registers	Article 18 Access by insolvency practitioners to national ~~*asset*~~ registers ***and databases***	Article 18 Access by insolvency practitioners to national ~~asset~~ registers **and databases**	Article 18 Access by insolvency practitioners to national ~~*asset*~~ registers ***and databases***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: Council Mandate
Article 18(1)				
G 216	1. Member States shall ensure that insolvency practitioners, regardless of the Member State where they have been appointed, have direct and expeditious access to the national asset registers listed in the Annex located in their territory, where available.	1. Member States shall ensure that insolvency practitioners***, when identifying and tracing assets relevant for the insolvency proceedings for which they are appointed***, regardless of the Member State where they have been appointed, have direct and expeditious access to the national ~~asset~~ registers ***and databases*** listed in the Annex located in their territory, where available.	1. Member States shall ensure that insolvency practitioners, regardless of the Member State ~~where~~**in which** they have been appointed, have direct and expeditious access to **information necessary for the purposes of identifying and tracing assets belonging to the insolvency estate, as well as assets subject to avoidance actions, that are held in existing** ~~the~~ national ~~asset~~ registers **and databases** listed in the Annex ~~located in their territory, where available~~**, in accordance with conditions provided for by national law**.	1. Member States shall ensure that insolvency practitioners, regardless of the Member State ~~where~~***in which*** they have been appointed, have direct and expeditious access to ***information necessary for the purposes of identifying and tracing assets belonging to the insolvency estate, as well as assets subject to avoidance actions, that are held in existing*** ~~the~~ national ~~asset~~ registers ***and databases*** listed in the Annex ~~located in their territory, where available~~***, in accordance with conditions provided for by national law***. Text Origin: Council Mandate
Article 18(2)				
Y 217	2. With respect to access to the national asset registers listed in the Annex, every Member State shall ensure that the insolvency practitioners appointed in another Member State are not subject to	2. With respect to access to the national asset registers listed in the Annex, every Member State shall ensure that the insolvency practitioners appointed in another Member State are not subject to	2. With respect to access to the national ~~asset~~ registers **and databases** listed in the Annex, ~~every~~**a** Member State shall ensure that the insolvency practitioners appointed in another Member	2. With respect to access to the national ~~asset~~ registers ***and databases*** listed in the Annex, ~~every~~***a*** Member State shall ensure that the insolvency practitioners appointed in another Member

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	access conditions that are de jure or de facto less favourable than the conditions granted to the insolvency practitioners appointed in that Member State.	access conditions that are de jure or de facto less favourable than the conditions granted to the insolvency practitioners appointed in that Member State.	State are not subject to access conditions that are ~~de jure or de facto~~ less favourable than ~~the conditions granted~~**those applicable** to the insolvency practitioners appointed in that Member State.	State are not subject to access conditions that are ***[***de jure or de facto less***]*** favourable than ~~*the conditions granted*~~***those applicable*** to the insolvency practitioners appointed in that Member State. Linked to the last sentence of recital 20 in the Council position. Council cannot accept "de jure or de facto"
Article 18(2a), first subparagraph				
217a			**2a. Member States shall notify the Commission the lists of national registers and databases referred to paragraph 1 by…[42 months from the date of entry into force of this Directive], and shall notify any changes thereto.**	EP considers political
Article 18(2a), second subparagraph				
217b			**The Commission shall publish those lists on the e-Justice portal.**	The Council will check if the OJ could be added
Article 18(2a)				
217c		***2a. Member States shall communicate the lists of the national registers and databases referred to in the Annex to the***		

Public

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		Commission by…[3 months from the date of entry into force of this Directive]. Member States shall immediately notify the Commission of any changes thereto. The Commission shall publish those lists on the European e-Justice portal.		
Chapter 4				
G	217d		**Chapter 4** **Access to courts by insolvency practitioners**	*deleted* *covered by 217e*
Chapter 3b				
G	*217e*	***Chapter 3a*** ***Access to courts by insolvency practitioners of another Member State***		***Chapter 4*** ***Access to courts by insolvency practitioners of another Member State*** Text Origin: EP Mandate
Article 18a				
G	217f	***Article 18a*** ***Access to courts by insolvency practitioners of another Member State***	**Article 18a** **Access to courts by insolvency practitioners**	***Article 18a*** ***Access to courts by insolvency practitioners of another Member State*** Text Origin: EP Mandate

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 18a, paragraph 1				
217g		***With respect to the right to initiate proceedings or appear before courts in order to claim assets on behalf of the insolvency estate, each Member State shall ensure that insolvency practitioners appointed in another Member State are not subject to conditions that are less favourable than those applicable to the insolvency practitioners appointed in that Member State.***	**With respect to the right to initiate proceedings or appear before courts or authorities in order to claim assets on behalf of the insolvency estate, Member States shall ensure that insolvency practitioners appointed in another Member State are not subject to conditions that are less favourable than those applicable to the insolvency practitioners appointed in that Member State.**	***With respect to the right to initiate proceedings or appear before courts or authorities in order to claim assets on behalf of the insolvency estate, Member States shall ensure that insolvency practitioners appointed in another Member State are not subject to conditions that are less favourable than those applicable to the insolvency practitioners appointed in that Member State.*** Text Origin: Council Mandate
Title IV				
218	Title IV PRE-PACK PROCEEDINGS	Title IV PRE-PACK PROCEEDINGS	Title IV PRE-PACK ~~PROCEEDINGS~~**MECHANISM**	
Chapter 1				
219	Chapter 1 General provisions	Chapter 1 General provisions	Chapter 1 General provisions	Chapter 1 General provisions
Article 19				
220	Article 19 Pre-pack proceedings	Article 19 Pre-pack proceedings	Article 19 Pre-pack ~~proceedings~~**mechanism**	political
Article 19(1)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
221	1. Member States shall ensure that pre-pack proceedings are composed of the following two consecutive phases	1. ***Member States shall introduce pre-pack proceedings for situations in which the debtor is likely to become insolvent in accordance with national law.*** Member States shall ensure that pre-pack proceedings are composed of the following two consecutive phases**:**	*deleted*		
Article 19(1a)					
G *221a*			**1. Member States shall ensure that debtors have access to the pre-pack mechanism in accordance with this Title.**		G
Article 19(1), point (-a)					
Y 221b			**1a. Member States shall ensure that debtors who enter the pre-pack mechanism are authorised to undertake at least acts of ordinary management during the preparation phase.**	linked to lines 244 and 248a EP counterproposal also covering 248a: "Member States shall ensure that, in the course of the preparation phase of the [pre-pack mechanism], the debtors are authorised to undertake at least acts of ordinary management including the control of its assets and the day-to-day operation of the business." COM to send compromise proposal for 244 and 248a	Y

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				<u>Question to the Member States:</u> **Article 5(1) of Directive (EU) 2019/1023 reads:** **"Member States shall ensure that debtors accessing preventive restructuring procedures remain totally, or at least partially, in control of their assets and the day-to-day operation of their business."** **Can the Member States accept the following wording, as proposed by COM:** **"Member States shall ensure that debtors who enter the pre-pack [mechanism] remain totally, or at least partially, in control of their assets and the day-to-day operation of their business."** **If accepted here, lines 244 and 248a of the EP text should be deleted (as not necessary).**
Article 19(1), point (a)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
222	(a) the preparation phase, which aims at finding an appropriate buyer for the debtor's business or part thereof;	(a) the preparation phase, which aims at finding an appropriate buyer for the debtor's business or part thereof;	*deleted*	*linked to "mechanism"*
Article 19(1), point (b)				
223	*(b)* the liquidation phase, which aims at approving and executing the sale of the debtor's business or part thereof and at distributing the proceeds to the creditors.	(b) the liquidation phase, which aims at approving and executing the sale of the debtor's business or part thereof and at distributing the proceeds to the creditors.	*deleted*	*linked to "mechanism"*
Article 19(2)				
224	*2.* Pre-pack proceedings shall comply with the conditions set out in this Title. As regards all other matters, including the ranking of claims and the rules on distribution of proceeds, Member States shall apply national provisions on winding-up proceedings, provided that they are compatible with Union law, including the rules laid down in this Title.	2. Pre-pack proceedings shall comply with the conditions set out in this Title. As regards all other matters, including the ranking of claims and the rules on distribution of proceeds, Member States shall apply national provisions on winding-up proceedings, provided that they are compatible with Union law~~, *including the rules laid down in this Title*~~.	2. ~~Pre-pack proceedings shall comply with the conditions set out in~~**National law applies to matters not regulated by** this Title~~. As regards all other matters~~, including the ranking of claims~~ and the rules on~~**, the** distribution of proceeds, ~~Member States shall apply national provisions on winding-up proceedings, provided that they are compatible with Union law, including the rules laid down in this Title~~**the nature, scope and form of creditors participation, the responsibilities and liability of the debtor and the debtor's directors and the remuneration of the monitor and the insolvency practitioner**.	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 19a				
224a		***Article 19a*** ***Rights of workers***		political
Article 19a(1)				
224b		***The pre-pack proceedings are without prejudice to Union and national law on the rights of workers in insolvency proceedings, including the involvement of workers' representatives and appropriate measures to inform and consult workers' representatives. While applying this Title, Member States shall ensure that the impact on workers is taken into account as much as possible, with a view to preserving employment.***		linked to art. 3b and 68a
Article 20				
G 225	Article 20 Relationship with other Union legal acts	Article 20 Relationship with other Union legal acts	Article 20 Relationship with other Union legal acts	Article 20 Relationship with other Union legal acts G
Article 20(1), first subparagraph				
G 226	1. The liquidation phase referred to in Article 19, paragraph 1, shall be considered to be an insolvency proceeding as defined	1. The liquidation phase referred to in Article 19, paragraph 1, shall be considered to be an insolvency proceeding as defined	1. The liquidation phase ~~referred to in Article 19, paragraph 1,~~ shall be ~~considered to be an~~**carried out by means of** insolvency ~~proceeding as defined~~	1. The liquidation phase ~~*referred to in Article 19, paragraph 1,*~~ shall be ~~*considered to be an*~~***carried out by means of*** insolvency ~~*proceeding as defined*~~ G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	in Article 2, point (4), of Regulation (EU) 2015/848.	in Article 2, point (4), of Regulation (EU) 2015/848.	~~in Article 2, point (4),~~ ~~of~~**proceedings other than preventive restructuring procedures. In Member States where** Regulation (EU) 2015/848 **applies, the liquidation phase shall be carried out by means of insolvency proceedings as set out in Annex A to Regulation (EU) 2015/848 other than preventive restructuring proceedings**.	~~*in Article 2, point (4),*~~ ~~*of*~~***proceedings other than preventive restructuring procedures. In Member States where*** Regulation (EU) 2015/848 ***applies, the liquidation phase shall be carried out by means of insolvency proceedings as set out in Annex A to Regulation (EU) 2015/848 other than preventive restructuring proceedings***. Text Origin: Council Mandate
Article 20(1), second subparagraph				
227	Monitors referred to in Article 22 may be considered to be insolvency practitioners as defined in Article 2, point (5), of Regulation (EU) 2015/848.	Monitors referred to in Article 22 may be considered to be insolvency practitioners as defined in Article 2, point (5), of Regulation (EU) 2015/848.	*deleted*	*deleted*
Article 20(2)				
228	*2.* For the purposes of Article 5(1) of Council Directive 2001/23/EC[1], the liquidation phase shall be considered to be bankruptcy or insolvency proceedings instituted with a view to the liquidation of the assets of the transferor under the	2. For the purposes of Article 5(1) of Council Directive 2001/23/EC[1], the liquidation phase shall be considered to be bankruptcy or insolvency proceedings instituted with a view to the liquidation of the assets of the transferor under the supervision of a competent public	2. ~~For the purposes of Article 5(1) of~~**This Directive is without prejudice to** Council Directive 2001/23/EC[1]~~, the liquidation phase shall be considered to be bankruptcy or insolvency proceedings instituted with a view to the liquidation of the assets of the transferor under the~~	**Question to the Member States:** **The Commission suggests to rephrase the last part of the EP counterproposal and move it in a new line 114c in Article 2 on definitions.**

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	supervision of a competent public authority. _____ 1. Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ L 82, 22.3.2001, p. 16).	authority***, provided that the liquidation of the debtor's business as a going concern satisfies to the greatest extent possible the claims of the creditors***. _____ 1. Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ L 82, 22.3.2001, p. 16).	~~supervision of a competent public authority.~~ **and national rules implementing it.** _____ 1. Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ L 82, 22.3.2001, p. 16).	**Can the Member States accept that the following text is inserted in a new line 114c:** **"The pre-pack [mechanism] has as its [primary] aim to enable to the greatest extent possible the satisfaction of the claims of all the creditors, whereas it can preserve employment as far as possible."**
Article 20(2), second subparagraph				
228a			**For the purposes of Article 5(1) of Council Directive 2001/23/EC[1], when it takes place in proceedings which can end in the liquidation of the debtor, the liquidation phase shall be considered to be bankruptcy proceedings or any analogous insolvency proceedings instituted with a view to the liquidation of the assets of the transferor under the supervision of a competent public authority.**	EP counterproposal: For the purposes of Article 5(1) of Council Directive 2001/23/EC1, when it takes place in proceedings which can end in the liquidation of the debtor, the liquidation phase shall be considered to be bankruptcy proceedings or any analogous insolvency proceedings instituted with a view to the liquidation of the assets of the transferor under the supervision of a competent public authority, provided

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			1. Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ L 82, 22.3.2001, p. 16).	that the liquidation of the debtor's business as a going concern satisfies to the greatest extent possible the claims of the creditors. COM to propose relocation of EP addition at the end
Article 21				
229	Article 21 Jurisdiction in pre-pack proceedings	Article 21 Jurisdiction in pre-pack proceedings	*deleted*	*deleted*
Article 21, first paragraph				
230	The court having jurisdiction in pre-pack proceedings shall have exclusive jurisdiction in matters relating to the scope and effects of the sale of the debtor's business or a part thereof in pre-pack proceedings on the debts and liabilities, as referred to in Article 28	The court having jurisdiction in pre-pack proceedings shall have exclusive jurisdiction in matters relating to the scope and effects of the sale of the debtor's business or a part thereof in pre-pack proceedings on the debts and liabilities, as referred to in Article 28	*deleted*	*deleted*
Chapter 2				
231	Chapter 2 Preparation Phase	Chapter 2 Preparation Phase	Chapter 2 Preparation Phase	Chapter 2 Preparation Phase

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
Article 22					
G 232	Article 22 The monitor	Article 22 The monitor	Article 22 **Appointment of** the monitor	Article 22 ***Appointment of*** the monitor Text Origin: Council Mandate	G
Article 22(1), first subparagraph					
Y 233	1. Member States shall provide that, upon request of the debtor, the court appoints a monitor.	1. Member States shall provide that, upon request of the debtor, the court appoints a monitor. ***The monitor shall 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.***	1. Member States shall ~~provide that, upon request of the debtor, the court appoints~~**ensure that the preparation phase starts when** a monitor **is appointed**. **The procedure for the appointment of the monitor shall be set in accordance with national law.**	EP counterproposal: Member States shall ensure that at the initiative of the debtor the preparation phase starts when a monitor is appointed. The procedure for the appointment of the monitor shall be set in accordance with national law. LL to check	Y
Article 22(1), second subparagraph					
G 234	The appointment of the monitor shall start the preparation phase referred to in Article 19, paragraph 1.	The appointment of the monitor shall start the preparation phase referred to in Article 19, paragraph 1.	*deleted*	*deleted*	G
Article 22(1a)					
G *234a*			**1a. Member States shall ensure that the monitor is independent from the debtor and any party closely related to the debtor. Member States may provide for additional**	***2. Member States shall ensure that the monitor is independent from the debtor and any party closely related to the debtor. Member States may provide for additional***	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			requirements regarding the monitor's independence from equity holders or creditors.	***requirements regarding the monitor's independence from equity holders or creditors.*** Text Origin: Council Mandate
Article 22(1b)				
G 234b	3. Member States shall ensure that only those persons who fulfil both of the following conditions can be appointed as monitor: Moved reference text		3. Member States shall ensure that only ~~those~~ persons who ~~fulfil both of the following conditions can be appointed as monitor:~~ Moved from row 241 [241 - 234b]	3. Member States shall ensure that only ~~*those*~~ persons who ~~*fulfil both of the following conditions can be appointed as monitor:*~~ Text Origin: Council Mandate
Article 22(1b), point (a)				
G 234c	(a) they satisfy the eligibility criteria applicable to insolvency practitioners in the Member State where the pre-pack proceedings are opened; Moved reference text		~~(a)~~ ~~they~~ satisfy the eligibility criteria applicable to insolvency practitioners in the Member State where the pre-pack ~~proceedings are opened;~~**mechanism is used can be appointed as monitor.** Moved from row 242 [242 - 234c]	~~*(a)*~~ ~~*they*~~ satisfy the eligibility criteria applicable to insolvency practitioners in the Member State where the pre-pack ~~*proceedings are opened;*~~***mechanism is used can be appointed as monitor.*** Text Origin: Council Mandate
Article 22(1b), point (b)				
G 234d	(b) they may be actually appointed as insolvency		*deleted*	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	practitioners in the subsequent liquidation phase. Moved reference text		*Moved from row 243 [243 - 234d]*	
Article 22(2), first subparagraph -a				
G *234e*			**Article 22a** **Principles of the preparation phase**	***Article 22a Principles of the preparation phase*** Moved from Line 250, 251. Text Origin: Council Mandate
Article 22(2), first subparagraph -b				
G 234f			**1. Member States shall ensure that the sale process is competitive, transparent, fair, and meets market standards.**	***1. Member States shall ensure that the sale process carried out during the preparation phase is competitive, transparent, fair and meets market standards.***
Article 22(2), first subparagraph				
G 235	2. Member States shall ensure that the monitor:	2. Member States shall ensure that the monitor:	2. Member States shall ensure that the monitor**, if necessary with the assistance of the debtor**:	2. Member States shall ensure that the monitor***, if necessary with the assistance of the debtor***: Text Origin: Council Mandate
Article 22(2), first subparagraph, point (a)				

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	236	(a) documents and reports each step of the sale process;	(a) documents and reports each step of the sale process;	*deleted*	*deleted*	G
	Article 22(2), first subparagraph, point (aa)					
G	*236a*		***(aa) where appropriate, has recourse to an independent valuation in order to comply with requirements related to obtaining market value;***		*deleted*	G
	Article 22(2), first subparagraph, point (b)					
G	*237*	*(b)* justifies why it considers that the sale process is competitive, transparent, fair and meets market standards;	(b) ~~*justifies why it considers*~~***formally declares and demonstrates*** that the sale process is competitive, transparent, fair and meets market standards;	(b) justifies why it considers that the ~~sale process is competitive, transparent, fair and meets market standards~~**requirement under paragraph 1 is fulfilled**;	(b) justifies why it considers that the ~~*sale process is competitive, transparent, fair and meets market standards*~~***requirement under paragraph 1 is fulfilled***; Text Origin: Council Mandate	G
	Article 22(2), first subparagraph, point (c)					
G	238	(c) recommends the best bidder as the pre-pack acquirer, in accordance with Article 30;	(c) recommends the best bidder as the pre-pack acquirer, in accordance with Article 30;	(c) recommends the best bidder as the pre-pack acquirer, in accordance with Article 30;	~~*(c)*~~***(a)*** recommends the best bidder as the pre-pack acquirer, in accordance with Article 30;	G
	Article 22(2), first subparagraph, point (d)					
G	239	(d) states whether it considers that the best bid does not constitute a manifest breach of the best-interest-of-creditors test.	(d) ~~*states whether it considers*~~***formally declares and demonstrates*** that the best bid does not constitute a manifest	(d) ~~states whether it considers that~~**state that, on the basis of its assessment,** the best bid does not	~~*(d)*~~***(b)*** states ~~*whether it considers*~~ that***, on the basis of its assessment,*** the best bid does not	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		breach of the best-interest-of-creditors test.	constitute a ~~manifest~~ breach of the best-interest-of-creditors test.	constitute a ~~*manifest*~~ breach of the best-interest-of-creditors test. Text Origin: Council Mandate
Article 22(2), second subparagraph				
G	240	Actions by the monitor listed in the first subparagraph shall be done in writing, be made available in digital format and in a timely manner to all parties involved in the preparation phase.	Actions by the monitor listed in the first subparagraph shall be done in writing~~,~~ ***and shall*** be made available in digital format and in a timely manner ***only to the*** ~~*to all*~~ parties involved in the preparation phase. ***Beyond that, the monitor shall maintain the confidentiality of all information obtained in connection with the preparation phase.***	*deleted*	*deleted* *merge with 240a*
Article 22(2), second subparagraph a				
Y	*240a*		**The monitor shall document and report each step of the sale process.**	***The monitor shall document and report each step of the sale process. The documents and reports of the monitor shall be done in writing, and shall be made available in digital format and in a timely manner. Member States shall ensure that, the monitor is subject to the same confidentiality requirements as an insolvency practitioner.***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Council to come back **<u>Question to the Member States:</u>** **The EP has agreed to delete lines 236-240, inter alia the obligation for the monitor to formally declare and demonstrate. The EP wishes to maintain the obligation for the monitor to make the documents and reports in writing and make them available in digital format in a timely manner.** **In order to avoid inconsistency with court proceedings being public, it is suggested that the monitor is subject to the same confidentiality requirements as an insolvency practitioner.** **Can the Member States accept the above compromise proposal?**
Article 22(2), second subparagraph b				
240b			**3. Member States may provide that a public auction be conducted prior to, or at the beginning of, the liquidation phase in order to ensure the realisation of a fair market price. Where such a public**	Council to come back (possibly with a proposal for clearer wording) **<u>Question to the Member States:</u>**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			auction is conducted, Member States may provide that the obligations set out in paragraph 1 and paragraph 2, point (a), do not apply to the monitor.	**The EP has concerns as to having an auction in the preparation phase, because the EP believes the authorization of the sale should take place in the liquidation phase.** **Additionally, as a compromise, the last sentence of the EP counterproposal in Line 260 was deleted and move in this line (highlighted).** **Can the Member States accept the following wording:** **"Member States may provide that a public auction be conducted in order to ensure the realization of a fair market price. Member States may provide that such public auction is conducted, in particular, in situations where one or more creditors demonstrate reasonable doubt that the best bid recommended by the monitor reflects the fair market price. Where such a public auction is conducted, Member States may provide that the obligations set out in paragraph**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				1 and paragraph 2, point (a), do not apply to the monitor.“
Article 22(3)				
G 241	3. Member States shall ensure that only those persons who fulfil both of the following conditions can be appointed as monitor:	3. Member States shall ensure that only those persons who fulfil both of the following conditions can be appointed as monitor:		*deleted* G
Article 22(3), point (a)				
G *242*	*(a)* they satisfy the eligibility criteria applicable to insolvency practitioners in the Member State where the pre-pack proceedings are opened;	(a) they satisfy the eligibility criteria applicable to insolvency practitioners in the Member State where the pre-pack proceedings are opened;		*deleted* G
Article 22(3), point (b)				
G *243*	*(b)* they may be actually appointed as insolvency practitioners in the subsequent liquidation phase.	(b) they may be actually appointed as insolvency practitioners in the subsequent liquidation phase.		*deleted* G
Article 22(4)				
G *244*	*4.* Member States shall ensure that, in the course of the preparation phase, the debtor remains in control of its assets and the day-to-day operation of the business.	4. Member States shall ensure that, in the course of the preparation phase, the debtor remains in control of its assets and the day-to-day operation of the business.	4. Member States ~~shall ensure~~**may provide** that, ~~in the course of the preparation phase, the debtor remains in control of its assets and the day-to-day operation of the business~~**where the recommendation referred to in paragraph 2, point (b), is approved by creditors in**	4. Member States ~~*shall ensure*~~***may provide*** that, ~~*in the course of the preparation phase, the debtor remains in control of its assets and the day-to-day operation of the business*~~***where the recommendation referred to in paragraph 2, point (b), is approved by creditors in*** G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			accordance with national law, paragraph 1 and paragraph 2, point (a), do not apply.	***accordance with national law, paragraph 1 and paragraph 2, point (a), do not apply***. Text Origin: Council Mandate
Article 22(5)				
245	5. Member States shall ensure that the remuneration of the monitor is paid:	5. Member States shall ensure that the remuneration of the monitor is paid:	5. Member States ~~shall ensure~~**may provide** that the ~~remuneration of the monitor is paid:~~**preparation phase not be initiated in cases where the debtor is generally unable to pay its debts as they fall due in accordance with national law.**	Council to come back with compromise proposal on renumeration linked to 221 **Question to Member the States:** **The EP is very insistant that the directive should contain rules on renumeration of the monitor.** **To replace lines 245-247, can you accept this compromise which ensures that the ranking of the claim for renumeration is not regulated:** **"5. Member States shall ensure that:** **(a) if no subsequent liquidation phase ensues, the remuneration of the monitor is paid by the debtor;**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				(b) if the liquidation phase ensues, the claim for renumeration can be filed in the insolvency estate."
Article 22(5), point (a)				
246	(a) by the debtor where no subsequent liquidation phase ensues;	(a) by the debtor where no subsequent liquidation phase ensues;	*deleted*	
Article 22(5), point (b)				
247	*(b)* by the insolvency estate as a preferential administrative expense where the liquidation phase ensues.	(b) by the insolvency estate as a preferential administrative expense where the liquidation phase ensues.	*deleted*	
Article 22a(6)				
247a			**6. Member States may provide that the preparation phase can be initiated only when the debtor is in a state of likelihood of insolvency in accordance with national law.**	linked to 221
Article 23				
G 248	Article 23 Stay of individual enforcement actions	Article 23 Stay of individual enforcement actions	Article 23 Stay of individual enforcement actions	Article 23 Stay of individual enforcement actions G
Article 23, first paragraph -a				
248a		***Member States shall ensure that, in the course of the preparation***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		phase, the debtor remains in control of its assets and the day-to-day operation of the business.		linked to EP counterproposal in line 221b
Article 23, first paragraph				
249	Member States shall ensure that during the preparation phase, where the debtor is in a situation of likelihood of insolvency or is insolvent in accordance with national law, the debtor can benefit from a stay of individual enforcement actions in accordance with Articles 6 and 7 of Directive (EU) 2019/1023, where it facilitates the seamless and effective roll-out of the pre-pack proceedings. The monitor shall be heard prior to the decision on the stay of individual enforcement actions.	Member States shall ensure that during the preparation phase, where the debtor is ~~*in a situation of likelihood of insolvency*~~***likely to become insolvent*** or is insolvent in accordance with national law, the debtor can benefit from a stay of individual enforcement actions in accordance with Articles 6 and 7 of Directive (EU) 2019/1023, where it ~~*facilitates the seamless and effective*~~***is essential for the successful*** roll-out of the pre-pack proceedings. The monitor ***and the corresponding creditor*** shall be heard ***by the court*** prior to the decision on the stay of individual enforcement actions.	Member States ~~shall ensure that~~**may provide that,** during the preparation phase, where the debtor is in a situation of likelihood of insolvency or is insolvent in accordance with national law, the debtor can benefit from a stay of individual enforcement actions in accordance with Articles 6 and 7 of Directive (EU) 2019/1023, where ~~it~~**that stay** facilitates the seamless and effective roll-out of the pre-pack ~~proceedings~~**mechanism**. The monitor shall be heard prior to the decision on the stay of individual enforcement actions.	EP counterproposal: Member States shall ensure that, during the preparation phase, where the debtor is in a situation of likelihood of insolvency or is insolvent in accordance with national law, the debtor can benefit from a stay of individual enforcement actions in accordance with Articles 6 and 7 of Directive (EU) 2019/1023, where that stay is essential for the successful roll-out of the [pre-pack proceedings]. The monitor and the corresponding creditor shall be heard by the court prior to the decision on the stay of individual enforcement actions. Council to come back **Question to the Member States:** **The Council has argued that it is unnecessary to have a "shall"-provision, because the debtor has access to other insolvency proceedings, where he/she can benefit from a stay. The EP**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				wishes to maintain a "shall" provision. **Can the Member States accept the EP proposal without the last sentence? If not, can the Member States accept the EP proposal without the last sentence and with the following addition as new paragraph 2 (the wording is inspired by Article 5(1) in Directive EU 2019/1023):** **"A Member State may derogate from paragraph 1, if the Member State provides that an insolvent debtor can benefit from a stay of individual enforcement actions by requesting insolvency proceedings during which the debtor remain totally, or at least partially, in control of their assets and the day-to-day operation of their business."**
Article 23a				
G 249a			**Article 23a** **Suspension of the opening of the liquidation phase**	***Article 23a*** ***Suspension of the opening of the liquidation phase*** G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: Council Mandate
Article 23a, first paragraph				
249b			**Member States may provide that when a creditor files for insolvency during the preparation phase, the opening of the liquidation phase can be suspended if, taking into account the circumstances of the case, that opening would not be in the general interest of creditors.**	Council cannot accept shall provision EP counterproposal: Member States shall provide that when a creditor files for insolvency during the preparation phase, the opening of the liquidation phase can be suspended if, taking into account the circumstances of the case, that opening would not be in the general interest of creditors. **<u>Question to the Member States:</u>** **The EP wishes to maintain a "shall" provision.** **Can the Member States accept the EP proposal?** **If not, can the Member States accept the EP proposal with the following addition as new paragraph 2:** **"A Member State may derogate from paragraph 1, if the Member State provides that an**

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	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				insolvent debtor can benefit from a stay of the opening of liquidation proceedings by requesting insolvency proceedings during which the debtor remain totally, or at least partially, in control of their assets and the day-to-day operation of their business."
Article 23b				
G 249c			**Article 23b** **Termination of the preparation phase**	***Article 23b*** ***Termination of the preparation phase*** Text Origin: Council Mandate
Article 23b, first paragraph				
249d			**1. Member States may provide that the preparation phase is limited in time.**	EP: shall provision Council to come back **Question to the Member States:** **Can the Member States in spirit of compromise accept the Council text as a shall-provision?**
Article 23b, second paragraph				

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	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 249e			**2. Member States may provide that the preparation phase can be terminated if:**	***2. Member States may provide that the preparation phase can be terminated if:*** Text Origin: Council Mandate
Article 23b, second paragraph, point (a)				
G 249f			**(a) the debtor fails to provide the necessary assistance in accordance with Article 22a (2);**	***(a) the debtor fails to provide the necessary assistance in accordance with Article 22a (2);*** Text Origin: Council Mandate
Article 23b, second paragraph, point (b)				
G 249g			**(b) the debtor fails to conduct the preparation phase with due diligence; or**	***(b) the debtor fails to conduct the preparation phase with due diligence; or*** Text Origin: Council Mandate
Article 23b, second paragraph, point (c)				
G 249h			**(c) the preparation phase does not have any reasonable prospects of success.**	***(c) the preparation phase does not have any reasonable prospects of success.*** Text Origin: Council Mandate
Article 24				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
250	Article 24 Principles applicable to the sale process	Article 24 Principles applicable to the sale process	*deleted*	*deleted*
Article 24(1)				
251	*1.* Member States shall ensure that the sale process carried out during the preparation phase is competitive, transparent, fair and meets market standards.	1. Member States shall ensure that the sale process carried out during the preparation phase is competitive, transparent, fair and meets market standards.	*deleted*	*deleted* *in council position in 234f*
Article 24(2)				
252	*2.* Where the sale process only produces one binding offer, that offer shall be deemed to reflect the business market price.	2. ***Without prejudice to Article 32(2),*** where the sale process only produces one binding offer, that offer shall be deemed to reflect the business market price***, unless it can be demonstrated otherwise***.	*deleted*	*deleted*
Article 24(3)				
253	*3.* Member States may depart from paragraph 1 only where the court runs a public auction in the liquidation phase in accordance with Article 26. In this case, Article 22(2), point (b) shall not apply.	3. Member States may depart from paragraph 1 only where the court runs a public auction in the liquidation phase in accordance with Article ~~26~~***26(2)***. In this case, Article 22(2), point (b) shall not apply.	*deleted*	*deleted*
Article 24(3a)				
253a		***3a. Member States shall ensure that it is possible, in the course of the preparation phase,***		*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		to obtain the services of an independent valuation practitioner as a means of gauging a fair market price.		
Chapter 3				
254	Chapter 3 Liquidation Phase	Chapter 3 Liquidation Phase	Chapter 3 Liquidation Phase	Chapter 3 Liquidation Phase
Article 25				
255	Article 25 Appointment of the insolvency practitioner	Article 25 Appointment of the insolvency practitioner	Article 25 ~~Appointment of the insolvency practitioner~~**Liquidation phase**	Article 25 ~~*Appointment of the insolvency practitioner*~~***Liquidation phase*** Text Origin: Council Mandate
Article 25, first paragraph				
256	Member States shall ensure that, when the liquidation phase is opened, the court appoints the monitor referred to in Article 22 as insolvency practitioner.	Member States shall ensure that, when the liquidation phase is opened, the court appoints the monitor referred to in Article 22 as insolvency practitioner ***unless the monitor resigns or is unable to perform the required functions, such as in cases of serious illness or death***.	~~Member States shall ensure that, when~~ The liquidation phase ~~is opened, the court appoints the monitor~~**starts when a decision on the opening of the insolvency proceedings** referred to in Article ~~22 as insolvency practitioner~~**20(1) is taken, in accordance with national law**.	COM to come back with compromise proposal **Question to the Member States** **The EP wants to ensure that in most cases, the monitor and the insolvency practitioner are the same person.** **Can the Member States accept the following addition to the**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Council text, as proposed by COM; "well-defined circumstances" and "duly justify" are well-known terms from the Directive (EU) 2019/1023. **"Member States shall ensure that, when the liquidation phase is opened, the monitor referred to in Article 22 is appointed as insolvency practitioner, unless there are well-defined circumstances that duly justify the appointment of another person."**
Article 26				
G 257	Article 26 Authorisation of the sale of the debtor's business or part thereof	Article 26 Authorisation of the sale of the debtor's business or part thereof	Article 26 ~~Authorisation of the sale of the debtor's business or part thereof~~**Principles applicable to the liquidation phase**	Article 26 ~~*Authorisation of the sale of the debtor's business or part thereof*~~***Principles applicable to the liquidation phase*** Text Origin: Council Mandate G
Article 26(1), first subparagraph				
G 258	1. Member States shall ensure that, when the liquidation phase is opened, the court authorises the sale of the debtor's	1. Member States shall ensure that, when the liquidation phase is opened, the court authorises the sale of the debtor's	1. Member States shall ensure that, when the liquidation phase is opened, the court **or competent authority** authorises	1. Member States shall ensure that, when the liquidation phase is opened, the court ***or competent authority*** authorises the G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	business or part thereof to the acquirer proposed by the monitor, provided that the latter has issued an opinion confirming that the sale process run during the preparation phase complied with the requirements laid down in Article 22(2) and (3), and Article 24(1) and (2).	business or part thereof to the acquirer proposed by the monitor, provided that the latter has issued an opinion confirming that the sale process run during the preparation phase complied with the requirements laid down in Article 22(2) and (3), and Article 24(1) and (2).	the sale of the debtor's business or part thereof ~~to the acquirer proposed by the monitor, provided that the latter has issued an opinion confirming that the sale process run during the preparation phase complied with the requirements laid down in Article 22(2) and (3), and Article 24(1) and (2).~~**, at least in one of the following cases:**	sale of the debtor's business or part thereof ~~*to the acquirer proposed by the monitor, provided that the latter has issued an opinion confirming that the sale process run during the preparation phase complied with the requirements laid down in Article 22(2) and (3), and Article 24(1) and (2).*~~ ***, at least in one of the following cases:*** Text Origin: Council Mandate
Article 26(1), first subparagraph, point (a)				
G 258a			**(a) the acquirer is proposed by the monitor, provided that the monitor has issued an opinion confirming that the sale process that took place during the preparation phase complied with the requirements laid down in Article 22a (1)) and the court or competent authority is satisfied that the requirements under Article 22a (1) and(2) are complied with;**	***(a) the acquirer is proposed by the monitor, provided that the monitor has issued an opinion confirming that the sale process that took place during the preparation phase complied with the requirements laid down in Article 22a (1)) and the court or competent authority is satisfied that the requirements under Article 22a (1) and(2) are complied with;*** Text Origin: Council Mandate
Article 26(1), first subparagraph, point (b)				

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
258b			**(b) the acquirer is selected in the public auction, where Member States provide for such an auction in the pre-pack mechanism in accordance with Article 22a (3); or**	open because of pre-pack mechanism issue and public auction issue
Article 26(1), first subparagraph, point (c)				
G 258c			**(c) the sale to the acquirer is approved by the creditors as referred to in Article 22a (4).**	***(c) the sale to the acquirer is approved by the creditors as referred to in Article 22a (4).*** Text Origin: Council Mandate
Article 26(1), second subparagraph				
G 259	The court shall not authorise the sale where the requirements laid down in Article 22(2) and (3) and Article 24(1) and (2) are not met. Member States shall ensure that, in the latter case, the court continues with the insolvency proceedings.	The court shall not authorise the sale where the requirements laid down in Article 22(2) and (3) and Article 24(1) and (2) are not met. Member States shall ensure that, in the latter case, the court continues with the insolvency proceedings.	*deleted*	*deleted*
Article 26(1a)				
G *259a*			**1a. Member States may provide that the sale of the debtor's business or part thereof under paragraph 1 point c) is approved by the creditors without the authorisation of the court or competent authority**	***1a. Member States may provide that the sale of the debtor's business or part thereof under paragraph 1 point c) is approved by the creditors without the authorisation of the court or competent authority where, under***

Public

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			where, under national law, the sale of the debtor's business or part thereof requires the consent of the creditors.	***national law, the sale of the debtor's business or part thereof requires the consent of the creditors.*** Text Origin: Council Mandate
Article 26(2)				
260	2. In case Member States apply Article 24(3), the public auction referred to in that provision shall last no longer than four weeks and shall be initiated within two weeks as of the opening of the liquidation phase. The offer selected by the monitor shall be used as the initial bid in the public auction. Member States shall ensure that the protections granted to the initial bidder in the preparation phase, such as expense reimbursement or break-up fees, are commensurate and proportionate, and do not deter potentially interested parties from bidding in the liquidation phase.	2. ~~*In case*~~***By way of derogation from paragraph 1,*** Member States ~~*apply Article 24(3), the*~~***shall ensure that the court can run a*** public auction ~~*referred to in that provision shall last no longer than four weeks and shall be initiated within two weeks as of the opening of the liquidation phase*~~***where one or more creditors' groups demonstrate a credible suspicion of abuse***. The offer selected by the monitor shall be used as the initial bid in the public auction. Member States shall ensure that the protections granted to the initial bidder in the preparation phase, such as expense reimbursement or break-up fees, are commensurate and proportionate, and do not deter potentially interested parties from bidding in the liquidation phase.	2. ~~In case Member States apply Article 24(3),~~ The public auction referred to in ~~that provision~~**Article 22a (3),** shall last no longer than ~~four weeks and shall be initiated within two weeks as of the opening of the liquidation phase~~**three months**. The offer selected by the monitor shall be used as the initial bid in the public auction. Member States shall ensure that the protections granted to the initial bidder in the preparation phase~~, such as expense reimbursement or break-up fees,~~ are commensurate and proportionate~~, and do not deter potentially interested parties from bidding in the liquidation phase.~~	EP counterproposal: The public auction referred to in Article 22a (3), shall last no longer than three months. The offer selected by the monitor shall be used as the initial bid in the public auction. Member States shall ensure that the protections granted to the initial bidder in the preparation phase are commensurate and proportionate Member States may provide for a public auction in situations where one or more creditors' groups demonstrate a credible suspicion of abuse. linked to 240b COM proposal: where there is a credible suspicion of abuse COM to come back with compromise proposal

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				COM compromise proposal: We suggest to delete the last sentence of the EP counterproposal in Line 260 and move it to Line 240b.
Article 26(2a), first subparagraph				
260a			**2a. Member States may provide that, upon decision of the court or the competent authority, on its own motion or where a creditor challenges the statement of the monitor referred to in Article 22a, paragraph 2, point (c), on the ground that the best bid does not meet the best-interests-of-creditor-test, a valuation of the business of the debtor as a going concern shall be carried out.**	EP counterproposal: Member States shall provide that, upon decision of the court or the competent authority, on its own motion or where a creditor challenges the statement of the monitor referred to in Article 22a, paragraph 2, point (c), on the ground that the best bid does not meet the best-interests-of-creditor-test, a valuation of the business of the debtor as a going concern shall be carried out. Council to come back with compromise proposal **<u>Question to the Member States:</u>** **The EP insists that all Member States should have the rule, but that it is still decided on a case-by-case basis if a valuation should be made.**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Can the Member States accept the following wording: **Member States shall provide that the court or the competent authority, on its own motion or where a creditor challenges the statement of the monitor referred to in Article 22a, paragraph 2, point (c), on the ground that the best bid does not meet the best-interests-of-creditor-test, can decide that a valuation of the business of the debtor as a going concern shall be carried out."**
Article 26(2a), second subparagraph				
G	260b		**Where, under national law, the sale of the debtor's business or part thereof requires the consent of the creditors, Member States may provide that the decision referred to in the first subparagraph can be taken by the creditors without the involvement of the court or competent authority.**	***Where, under national law, the sale of the debtor's business or part thereof requires the consent of the creditors, Member States may provide that the decision referred to in the first subparagraph can be taken by the creditors without the involvement of the court or competent authority.*** Text Origin: Council Mandate
Article 27				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
261	Article 27 Assignment or termination of executory contracts	Article 27 Assignment or termination of executory contracts	Article 27 Assignment or termination of executory contracts	Article 27 Assignment or termination of executory contracts
Article 27(1), first subparagraph				
262	1. Member States shall ensure that the acquirer of the debtor's business or part thereof is assigned the executory contracts which are necessary for the continuation of the debtor's business and the suspension of which would lead to a business standstill. The assignment shall not require the consent of the debtor's counterparty or counterparties.	1. Member States shall ensure that the acquirer of the debtor's business or part thereof is assigned the executory contracts which are necessary for the continuation of the debtor's business and the suspension of which would lead to a business standstill. The assignment shall not require the consent of the debtor's counterparty or counterparties.	1. Member States shall ensure that the acquirer of the debtor's business**,** or part thereof**,** is assigned the executory contracts which are necessary for the continuation of ~~the debtor's~~**that** business and the suspension of which would lead to a business standstill. The assignment shall not require the consent of the debtor's counterparty or counterparties.	1. Member States shall ensure that the acquirer of the debtor's business**,** or part thereof**,** is assigned the executory contracts which are necessary for the continuation of ~~*the debtor's*~~***that*** business and the suspension of which would lead to a business standstill. The assignment shall not require the consent of the debtor's counterparty or counterparties. Text Origin: Council Mandate
Article 27(1), first subparagraph a				
262a			**1a. Member States may provide that the consent of the debtor's counterparty or counterparties is required depending on the type of contract, the quality of the parties, or the interests of the business. Member States may, in particular, provide that the consent of the counterparty or**	agreement on substance, need to agree on the way to formulate the exception COM to come back with compromise proposal on 262a and 262b + definition of executory contracts **Question to the Member States:**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			counterparties is required for netting arrangements, including close-out netting arrangements, on financial markets, energy markets and commodity markets if such arrangements are enforceable under national insolvency law.	**This should be read in conjunction with the COM compromise proposal for line 105.** **If netting arrangements is not encompassed by the definition of executory contract, there would be no need for the text highlighted in yellow. Hence, it would be up to the Member States to decide, if the consent of the counterparty is needed.** **Can the Member states accept the deletion of the wording highlighted in yellow?**
Article 27(1), first subparagraph a				
262b		***By way of derogation from the first subparagraph, Member States may provide that consent of the debtor's counterparty or counterparties is required in so far as is necessary, depending on the type of contract, the legal status of the parties or the interests of the business.***		
Article 27(1), first subparagraph b				
262c			**1b. Without prejudice to other termination rights under national law, Member States**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			may provide that the counterparty or counterparties can terminate the assigned contract under paragraph 1 subject to a notice period no shorter than three months of the assignment.	
Article 27(1), second subparagraph				
263	The first subparagraph shall not apply if the acquirer of the debtor's business or part thereof is a competitor to the debtor's counterparty or counterparties.	The first subparagraph shall not apply if the acquirer of the debtor's business or part thereof is a competitor to the debtor's counterparty or counterparties.	*deleted*	*linked to COM proposal on 262a and 262b*
Article 27(2), first subparagraph				
264	*2.* Member States shall ensure that the court may decide to terminate the executory contracts referred to in paragraph 1, first subparagraph, provided that one of the following conditions applies:	2. Member States shall ensure that the court may decide to terminate the executory contracts referred to in paragraph 1, first subparagraph, ***subject to a notice period of at least three months prior to the assignment,*** provided that one of the following conditions applies:	*deleted*	
Article 27(2), first subparagraph, point (a)				
265	*(a)* the termination is in the interest of the debtor's business or part thereof;	(a) the termination is in the interest of the debtor's business or part thereof;	*deleted*	
Article 27(2), first subparagraph, point (b)				

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
266	*(b)* the executory contract contains public service obligations for which the counterparty is a public authority and the acquirer of the debtor's business or part thereof does not meet the technical and legal obligations to carry out the services provided for in such contract.	(b) the executory contract contains public service obligations for which the counterparty is a public authority and the acquirer of the debtor's business or part thereof does not meet the technical and legal obligations to carry out the services provided for in such contract.	*deleted*	
Article 27(2), second subparagraph				
267	Point (a) of the first subparagraph shall not apply to executory contracts relating to licenses of intellectual and industrial property rights.	Point (a) of the first subparagraph shall not apply to executory contracts relating to licenses of intellectual and industrial property rights ***or to credit or financial services contracts***.	**2.** ~~Point (a) of the first subparagraph shall not apply to~~**Member States may provide that** executory contracts relating to licenses of intellectual and industrial property rights**, of which the debtor is the licensor, are not terminated without the consent of the licensee**.	EP counterproposal: Member States shall provide that executory contracts relating to licenses of intellectual and industrial property rights, of which the debtor is the licensor, are not terminated without the consent of the licensee.
Article 27(3)				
G 268	3. The law applicable to the assignment or to the termination of executory contracts shall be the law of the Member State where the liquidation phase has been opened.	3. The law applicable to the assignment or to the termination of executory contracts shall be the law of the Member State where the liquidation phase has been opened.	*deleted*	*deleted* G
Article 28				
269	Article 28 Debts and liabilities of the business acquired via the pre-pack proceedings	Article 28 Debts and liabilities of the business acquired via the pre-pack proceedings	Article 28 Debts and liabilities of the business acquired via the pre-pack ~~proceedings~~**mechanism**	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 28, first paragraph				
G 270	Member States shall ensure that the acquirer acquires the debtor's business or part thereof free of debts and liabilities, unless the acquirer expressly consents to bear the debts and the liabilities of the business or part thereof.	Member States shall ensure that the acquirer acquires the debtor's business or part thereof free of debts and liabilities, unless the acquirer expressly consents to bear***, solely or jointly with the debtor,*** the debts and the liabilities of the business or part thereof.	**1. Without prejudice to Article 27 and Article 34 (3) and (4), as well as to the obligations arising from employment relations, concerned by the sale of business or part thereof,** Member States shall ensure that the acquirer acquires the debtor's business**,** or part thereof**,** free of debts and liabilities, unless the acquirer expressly consents to bear the debts and the liabilities of the business or part thereof.	***1. Without prejudice to Article 27 and Article 34 (3) and (4), as well as to the obligations arising from employment relations, concerned by the sale of business or part thereof,*** Member States shall ensure that the acquirer acquires the debtor's business***,*** or part thereof***,*** free of debts and liabilities, unless the acquirer expressly consents to bear the debts and the liabilities of the business or part thereof. Text Origin: Council Mandate G
Article 28, first paragraph a				
G 270a			**2. Paragraph 1 is without prejudice to national laws providing that the conduct of the debtor is taken into account in the assessment the acquirer's liability for damages, if that conduct is imputable to the acquirer under the applicable law.**	***2. Paragraph 1 is without prejudice to national laws providing that the conduct of the debtor is taken into account in the assessment the acquirer's liability for damages, if that conduct is imputable to the acquirer under the applicable law.*** Text Origin: Council Mandate G
Article 29				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
271	Article 29 Specific rules on the suspensive effects of appeals	Article 29 Specific rules on the suspensive effects of appeals	Article 29 ~~Specific rules on the~~ Suspensive effects of appeals	
Article 29(1)				
272	1. Member States shall ensure that appeals against decisions of the court relating to the authorisation or execution of the sale of the debtor's business or part thereof may have suspensive effects only subject to the provision by the appellant of a security that is adequate to cover the potential damages caused by the stay of the realisation of the sale.	1. Member States shall ensure that appeals against decisions of the court relating to the authorisation or execution of the sale of the debtor's business or part thereof may have suspensive effects only subject to the provision by the appellant of a security that is adequate to cover the potential damages caused by the stay of the realisation of the sale.	~~1.~~ Member States ~~shall ensure~~**may provide** that appeals against decisions of the court **or competent authority** relating to the authorisation or execution of the sale of the debtor's business or part thereof may have suspensive effects~~ only subject to the provision by the appellant of a security that is adequate to cover the potential damages caused by the stay of the realisation of the sale~~**, in accordance with national law**.	EP counterproposal: Member States shall provide that where relevant appeals against decisions of the court or competent authority relating to the authorisation or execution of the sale of the debtor's business or part thereof may have suspensive effects, in accordance with national law. Council to come back with compromise proposal (potentially to include deletion of 273) **Questions to the Member States:** **According to the EP proposal appeals against decisions of the court or competent authority relating to the authorisation or execution of the sale of the debtor's business or part thereof should have suspensive effect on a case-by-case basis. Furthermore, the EP has maintained the reference to national law.**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Can the Member States accept the EP proposal above, if line 273 is deleted?
Article 29(2)				
273	2. Member States shall ensure that the court hearing the appeal has discretion to exempt a natural person appellant, totally or partially, from the provision of a security if it considers such exemption appropriate in light of the circumstances of the given case.	2. Member States shall ensure that the court hearing the appeal has discretion to exempt a natural person appellant, totally or partially, from the provision of a security if it considers such exemption appropriate in light of the circumstances of the given case.	*deleted*	*EP flexibility dependent on para 1*
Chapter 4				
G *274*	Chapter 4 Provisions relevant to both phases of the pre-pack proceedings	Chapter 4 Provisions relevant to both phases of the pre-pack proceedings	Chapter 4 **Common** provisions ~~relevant to both phases of the pre-pack proceedings~~	Chapter 4 ***Common*** provisions ~~*relevant to both phases of the pre-pack proceedings*~~ Text Origin: Council Mandate G
Article 30				
G 275	Article 30 Criteria to select the best offer	Article 30 Criteria to select the best offer	Article 30 Criteria to select the best offer	Article 30 Criteria to select the best offer G
Article 30, first paragraph				
276	Member States shall ensure that the criteria to select the best bid in the pre-pack proceedings are the	Member States shall ensure that the criteria to select the best bid in the pre-pack proceedings are the	Member States shall ensure that the criteria to select the best bid in the pre-pack	EP counterproposal: Member States shall set the criteria for selecting the best bid in the pre-pack mechanism, and ensure that they are the same as

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	same as the criteria used to select between competing offers in winding-up proceedings.	same as the criteria used to select between competing offers in winding-up proceedings.	~~proceedings~~**mechanism are set out in national law and** are the same as the criteria ~~used~~**to be applied** to select between competing offers in ~~winding-up~~**insolvency** proceedings.	the criteria used for selecting between competing offers in insolvency proceedings. Council to check **Question to the Member States:** **As the criteria for selecting the best bid in the pre-pack mechanism will be set in national law, the EP proposal above doesn't lead to a difference in substance.** **Can the Member States accept the EP proposal?**
Article 31				
G 277	Article 31 Civil liability of the monitor and of the insolvency practitioner	Article 31 Civil liability of the monitor and of the insolvency practitioner	Article 31 Civil liability of the monitor and of the insolvency practitioner	Article 31 Civil liability of the monitor and of the insolvency practitioner G
Article 31, first paragraph				
G 278	Member States shall ensure that the monitor and the insolvency practitioner are liable for the damages that their failure to comply with their obligations under this Title causes to creditors and third parties affected by the pre-pack proceedings.	Member States shall ensure that the monitor and the insolvency practitioner are liable for the damages that their ***intentional or negligent*** failure to comply with their obligations under this Title causes to creditors and third parties affected by the pre-pack proceedings.	Member States shall ensure that the monitor and the insolvency practitioner are liable for the damages ~~that~~**caused to creditors by** their **intentional or negligent** failure to comply with their obligations under this Title ~~causes to creditors and third parties~~	Member States shall ensure that the monitor and the insolvency practitioner are liable for the damages ~~*that*~~***caused to creditors by*** their ***intentional or negligent*** failure to comply with their obligations under this Title ~~*causes to creditors and third parties*~~ G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			~~affected by the pre-pack proceedings~~.	~~*affected by the pre-pack proceedings*~~. Text Origin: Council Mandate
Article 32				
G 279	Article 32 Parties closely related to the debtor in the sale process	Article 32 Parties closely related to the debtor in the sale process	Article 32 Parties closely related to the debtor ~~in the sale process~~	Article 32 Parties closely related to the debtor in the sale process Text Origin: EP Mandate
Article 32(1), first subparagraph				
G 280	1. Member States shall ensure that parties closely related to the debtor are eligible to acquire the debtor's business or part thereof, provided that all of the following conditions are met:	1. Member States shall ensure that parties closely related to the debtor are eligible to acquire the debtor's business or part thereof, provided that all of the following conditions are met:	1. Member States shall ensure that parties closely related to the debtor are eligible to acquire the debtor's business or part thereof, provided that all of the following conditions are met:	1. Member States shall ensure that parties closely related to the debtor are eligible to acquire the debtor's business or part thereof, provided that all of the following conditions are met:
Article 32(1), first subparagraph, point (a)				
G 281	(a) they disclose in a timely manner to the monitor and to the court their relation to the debtor;	(a) they disclose in a timely manner to the monitor and to the court their relation to the debtor;	(a) ~~they~~**the parties closely related to the debtor** disclose in ~~a timely manner~~**the bid** to the monitor ~~and to the court~~ their relation to the debtor; Text Origin: Council Mandate	(a) ~~*they*~~***the parties closely related to the debtor*** disclose in ~~*a timely manner*~~***the bid*** to the monitor ~~*and to the court*~~ their relation to the debtor;
Article 32(1), first subparagraph, point (b)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
282	(b) other parties to the sale process receive adequate information on the existence of parties closely related to the debtor and their relation to the latter;	(b) other parties to the sale process receive adequate information on the existence of parties closely related to the debtor and their relation to the latter;	(b) ~~other~~ parties ~~to the sale process~~**other than those referred in point (a)** receive adequate information on the existence of parties closely related to the debtor and their relation to the latter~~;~~**.**	(b) ~~*other*~~ parties ~~*to the sale process*~~***other than those referred in point (a)*** receive adequate information on the existence of parties closely related to the debtor and their relation to the latter~~;~~***.*** Text Origin: Council Mandate
Article 32(1), first subparagraph, point (ba)				
282a			**(ba) in the case under article 26(1), point (a), a valuation of the business as a going concern is carried out for the purposes of the statement of the monitor referred to in Article 22a(2), point (c).**	***(ba) in the case under article 26(1), point (a), a valuation of the business as a going concern is carried out for the purposes of the statement of the monitor referred to in Article 22a(2), point (c).*** Text Origin: Council Mandate
Article 32(1), first subparagraph, point (c)				
283	(c) parties not closely related to the debtor are granted sufficient time to make an offer.	(c) parties not closely related to the debtor are granted sufficient time to make an offer.	(c) parties not closely related to the debtor are granted sufficient time to make an offer.	(c) parties not closely related to the debtor are granted sufficient time to make an offer.
Article 32(1), second subparagraph				
284	Member States may provide that where it is proved that the disclosure duty referred to in the first subparagraph, point (a), was	Member States ~~*may*~~***shall*** provide that where it is proved that the disclosure duty referred to in the first subparagraph, point (a), was	Member States may provide that**,** where it is ~~proved that the disclosure duty referred to in~~**proven that a party closely related to the debtor failed to**	EP counterproposal: Member States shall provide that, where it is proven that a party closely related to the debtor failed to comply with the

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	breached, the court revokes the benefits referred to in Article 28.	breached, the court revokes the benefits referred to in Article 28.	**comply with the conditions under** the first subparagraph, point (a), ~~was breached,~~ the court **or competent authority** revokes the benefits referred to in Article ~~28~~**28(1)**.	conditions under the first subparagraph, point (a), the court or competent authority can revoke the benefits referred to in Article 28(1). Council to come back **Question to the Member States:** **The EP insists to have a "shall" rule, while it accepts that the assessment will be done on a case-by-case basis ("revokes" transformed into "can revoke").** **Can Member States accept the EP proposal above?**
Article 32(2)				
285	2. Where the offer made by a party closely related to the debtor is the only existing offer, Member States shall introduce additional safeguards for the authorisation and execution of the sale of the debtor's business or part thereof. These safeguards shall at least include the duty for the monitor and the insolvency practitioner to reject the offer from the party closely related to the debtor if the	2. Where the offer made by a party closely related to the debtor is the only existing offer, Member States shall introduce additional safeguards for the authorisation and execution of the sale of the debtor's business or part thereof. These safeguards shall at least include the ***requirement to obtain a market valuation of the business and the*** duty for the monitor and the insolvency practitioner to reject the offer from	2. Where the offer made by a party closely related to the debtor is **considered as the best**~~the only existing~~ offer, Member States ~~shall~~**may** introduce additional safeguards for the authorisation and execution of the sale of the debtor's business or part thereof. ~~These safeguards shall at least include the duty for the monitor and the insolvency practitioner to reject the offer from the party closely related to the debtor if the~~	EP counterproposal: Where the offer made by a party closely related to the debtor is considered as the best offer, Member States shall introduce additional safeguards for the authorisation and execution of the sale of the debtor's business or part thereof.

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	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	offer does not satisfy the best-interest-of-creditors test.	the party closely related to the debtor if the offer does not satisfy the best-interest-of-creditors test.	~~offer does not satisfy the best-interest-of-creditors test.~~	
Article 33				
G 286	Article 33 Measures to maximize the value of the debtor's business or part thereof	Article 33 Measures to maximize the value of the debtor's business or part thereof	Article 33 ~~Measures to maximize the value of the debtor's business or part thereof~~**Interim financing**	Article 33 ~~*Measures to maximize the value of the debtor's business or part thereof*~~***Interim financing*** Text Origin: Council Mandate
Article 33(1)				
G 287	1. Where interim financing is needed, Member States shall ensure that:	1. Where interim financing is needed, Member States shall ensure that:	1. Where interim financing is needed, Member States shall ensure that:	1. Where interim financing is needed, Member States shall ensure that:
Article 33(1), point (a)				
G 288	(a) the monitor or the insolvency practitioner takes the necessary steps to obtain interim financing at the lowest possible cost;	(a) ***the debtor,*** the monitor or the insolvency practitioner takes the necessary steps to obtain interim financing at the lowest possible cost;	*deleted*	*deleted*
Article 33(1), point (b)				
289	*(b)* grantors of interim financing are entitled to receive payment with priority in the context of subsequent insolvency procedures in relation to other	(b) grantors of interim financing are entitled to receive payment with priority in the context of subsequent insolvency procedures in relation to other	*deleted*	*EP wants to keep COM original text*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	creditors that would otherwise have superior or equal claims;	creditors that would otherwise have superior or equal claims;		
Article 33(1), point (c)				
290	*(c)* security interests over the sale proceeds may be granted to providers of interim financing in order to secure reimbursement;	(c) security interests over the sale proceeds may be granted to providers of interim financing in order to secure reimbursement;	*deleted*	*deleted*
Article 33(1), point (d)				
291	*(d)* interim financing is eligible to be set-off against the price to be disbursed under the adjudicated offer, when provided by interested bidders.	(d) interim financing is eligible to be set-off against the price to be disbursed under the adjudicated offer, when provided by interested bidders.	*deleted*	
Article 33(1), point (d)				
291a			**(a) interim financing is not declared void, voidable or unenforceable; and**	***(a) interim financing is not declared void, voidable or unenforceable; and*** Text Origin: Council Mandate
Article 33(1), point (e)				
291b			**(b) the grantors of interim financing do not incur civil, administrative or criminal liability, on the ground that such financing is detrimental to the general body of creditors, unless**	***(b) the grantors of interim financing do not incur civil, administrative or criminal liability, on the ground that such financing is detrimental to the general body of creditors, unless***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			national law provides for other grounds for such liability.	***national law provides for other grounds for such liability.*** Text Origin: Council Mandate
Article 33(1b)				
291c			**2. Subject to the ranking priorities of claims arising during insolvency proceedings, Member States may provide that:**	***2. Subject to the ranking priorities of claims arising during insolvency proceedings, Member States may provide that:*** Text Origin: Council Mandate
Article 33(1a), point (a)				
291d			**(a) security interests over the sale proceeds can be granted to providers of interim financing in order to secure reimbursement; and**	***(a) security interests over the sale proceeds can be granted to providers of interim financing in order to secure reimbursement; and*** Text Origin: Council Mandate
Article 33(1a), point (b)				
291e			**(b) interim financing is eligible to be set-off against the price to be disbursed under the adjudicated offer, when provided by interested bidders.**	***(b) interim financing is eligible to be set-off against the price to be disbursed under the adjudicated offer, when provided by interested bidders.***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: Council Mandate
Article 33(1c)				
291f			**3. Member States may provide that paragraph 1 and 1a only apply to interim financing which has been subject to ex ante control.**	***3. Member States may provide that paragraph 1 and 1a only apply to interim financing which has been subject to ex ante control.*** Text Origin: Council Mandate
Article 33a				
291g			**Article 33a Pre-emption rights and credit bidding**	
Article 33(2)				
292	2. Member States shall ensure that no pre-emption rights are conceded to bidders.	2. Member States shall ensure that no pre-emption rights are conceded to bidders.	~~2~~**1**. Member States shall ensure that no pre-emption rights are ~~conceded~~**granted** to bidders. **Member States may provide that pre-emption rights established under national law that are not affected by the insolvency of the debtor are maintained and are enforceable.**	EP counterproposal: Member States shall ensure that no pre-emption rights are granted to bidders. Member States may provide that statutory pre-emption rights not affected by the insolvency of the debtor are maintained and are enforceable. **Question to the Member States:** **The EP wishes that the operative part corresponds to recital 29 (line 42).**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Can the Member States accept the EP proposal?
Article 33(3)				
293	3. Member States shall ensure that, where security interests encumber the business subject to the pre-pack proceedings, creditors who are the beneficiaries of those security interests may offset their claims in their bid only provided that the value of those claims is significantly below market value of the business.	3. Member States shall ensure that, where security interests encumber the business subject to the pre-pack proceedings, creditors who are the beneficiaries of those security interests may offset their claims in their bid only provided that the value of those claims is significantly below market value of the business.	~~3~~**2**. Member States shall ensure that, where security interests encumber the business subject to the pre-pack ~~proceedings~~**mechanism**, creditors who are the beneficiaries of those security interests may offset their claims ~~in their bid only provided that the value of those claims is significantly below~~**against the purchase price only to an amount not exceeding the** market value of the business.	~~*3*~~***2***. Member States shall ensure that, where security interests encumber the business subject to the pre-pack ~~*proceedings*~~***mechanism***, creditors who are the beneficiaries of those security interests may offset their claims ~~*in their bid only provided that the value of those claims is significantly below*~~***against the purchase price only to an amount not exceeding the*** market value of the business. Text Origin: Council Mandate
Article 34				
294	Article 34 Protection of the interests of the creditors	Article 34 Protection of the interests of the creditors	Article 34 Protection of the interests of the creditors	Article 34 Protection of the interests of the creditors
Article 34(-1)				
294a		***-1. Member States shall ensure that, prior to the authorisation of the sale of the debtor's business or part thereof,***		deleted

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		the insolvency practitioner provides the court with a report on a favourable best-interest-of-creditors test.		
Article 34(1), first subparagraph				
295	1. Member States shall ensure that creditors as well as holders of equity of the debtor's business have the right to be heard by the court before the authorisation or the execution of the sale of the debtor's business or part thereof.	1. Member States shall ensure that creditors as well as holders of equity of the debtor's business have the right to be heard by the court before the authorisation or the execution of the sale of the debtor's business or part thereof.	*deleted*	*EP prefers to keep COM proposal*
Article 34(1), second subparagraph				
296	Member States shall lay down detailed rules in order to ensure the effectiveness of the right to be heard under the first subparagraph.	Member States shall lay down detailed rules in order to ensure the effectiveness of the right to be heard under the first subparagraph.	*deleted*	*EP counterproposal: Member States shall lay down detailed rules in order to ensure the effectiveness of the right to be heard under the first subparagraph. By way of derogation of subparagraph 1, Member States may provide creditors with additional rights where relevant.*
Article 34(2)				
G *297*	*2.* By way of derogation from paragraph 1, Member States may by law not grant the right to be heard to:	2. By way of derogation from paragraph 1, Member States may by law not grant the right to be heard to:	*deleted*	*deleted* G
Article 34(2), point (a)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 298	*(a)* the creditors or holders of equity who would not receive any payment or keep any interest according to the normal ranking of liquidation priorities under national law;	(a) the creditors or holders of equity who would not receive any payment or keep any interest according to the normal ranking of liquidation priorities under national law;	*deleted*	*deleted* G
Article 34(2), point (b)				
G 299	*(b)* the creditors of executory contracts whose claims against the debtor arose before the authorisation of the sale of the debtor's business or part thereof and are supposed to be paid in full under the terms of the pre-pack offer.	(b) the creditors of executory contracts whose claims against the debtor arose before the authorisation of the sale of the debtor's business or part thereof and are supposed to be paid in full under the terms of the pre-pack offer.	*deleted*	*deleted* G
Article 34(3)				
G 300	*3.* Member States shall ensure that security interests are released in pre-pack proceedings under the same requirements that would apply in winding-up proceedings.	3. Member States shall ensure that security interests are released in pre-pack proceedings under the same requirements that would apply in winding-up proceedings.	3. Member States shall ensure that security interests **or other encumbrances** are released in **the course of the pre-pack mechanism**~~pre-pack proceedings~~ under the same requirements that would apply in ~~winding up~~**the insolvency** proceedings **under national law**.	3. Member States shall ensure that security interests ***or other encumbrances*** are released in ***the course of the pre-pack mechanism***~~*pre-pack proceedings*~~ under the same requirements that would apply in ~~*winding up*~~***the insolvency*** proceedings ***under national law***. Text Origin: Council Mandate G
Article 34(4)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
301	4. Member States in which consent from holders of secured claims is required in winding-up proceedings for the release of security interests may depart from requiring such consent, provided that the security interests relate to assets that are necessary for the continuation of the day-to-day operations of the debtor's business or part thereof and one of the following conditions is fulfilled:	4. Member States in which consent from holders of secured claims is required in winding-up proceedings for the release of security interests may depart from requiring such consent, provided that the security interests relate to assets that are necessary for the continuation of the day-to-day operations of the debtor's business or part thereof and one of the following conditions is fulfilled:	4. Member States ~~in which consent from holders of secured claims is required in winding-up proceedings for~~**whose law makes** the release of security interests **conditional upon the consent of holders of secured claims to the insolvency proceedings may provide that**~~may depart from requiring~~ such consent~~, provided that the security interests relate to assets that are necessary for the continuation of the day-to-day operations of the debtor's business or part thereof and one of the following conditions is fulfilled:~~ **is not required.**	4. Member States ~~*in which consent from holders of secured claims is required in winding-up proceedings for*~~***whose law makes*** the release of security interests ***conditional upon the consent of holders of secured claims to the insolvency proceedings may provide that***~~*may depart from requiring*~~ such consent~~*, provided that the security interests relate to assets that are necessary for the continuation of the day-to-day operations of the debtor's business or part thereof and one of the following conditions is fulfilled:*~~ ***is not required.*** Text Origin: Council Mandate
Article 34(4), point (a)				
302	(a) creditors of secured claims fail to prove that the pre-pack offer does not satisfy the best-interest-of-creditors test;	(a) creditors of secured claims fail to prove that the pre-pack offer does not satisfy the best-interest-of-creditors test;	*deleted*	*deleted*
Article 34(4), point (b)				
303	*(b)* creditors of secured claims have not filed (directly or through a third party) an alternative binding acquisition offer that	(b) creditors of secured claims have not filed (directly or through a third party) an alternative binding acquisition offer that	*deleted*	*deleted*

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	allows the insolvency estate to obtain a better recovery than with the proposed pre-pack offer.	allows the insolvency estate to obtain a better recovery than with the proposed pre-pack offer.		
Article 35				
G *304*	Article 35 Impact of competition law procedures on the timing or the successful outcome of the bid	Article 35 Impact of competition law procedures on the timing or the successful outcome of the bid	Article 35 Impact of competition law procedures on the timing or the successful outcome of the bid	Article 35 Impact of competition law procedures on the timing or the successful outcome of the bid G
Article 35(1)				
G 305	1. Member States shall ensure that, where there is an appreciable risk of a delay ensuing from a procedure based on competition law or of a negative decision by a competition authority in relation to an offer made in the course of the preparation phase, the monitor shall facilitate the presentation of alternative bids.	1. Member States shall ensure that, where there is an appreciable risk of a delay ensuing from a procedure based on competition law or of a negative decision by a competition authority in relation to an offer made in the course of the preparation phase, the monitor shall facilitate the presentation of alternative bids.	1. Member States shall ensure that, where there is an appreciable risk of a delay ensuing from a procedure based on competition law or of a negative decision by a competition authority in relation to an offer made in the course of the preparation phase, the monitor ~~shall facilitate the presentation of~~**or the debtor takes appropriate steps to present** alternative bids.	1. Member States shall ensure that, where there is an appreciable risk of a delay ensuing from a procedure based on competition law or of a negative decision by a competition authority in relation to an offer made in the course of the preparation phase, the monitor ~~*shall facilitate the presentation of*~~***or the debtor takes appropriate steps to present*** alternative bids. Text Origin: Council Mandate G
Article 35(2)				
G 306	2. Member States shall ensure that the monitor may receive information on the applicable competition law	2. Member States shall ensure that the monitor may receive information on the applicable competition law	2. Member States shall ensure that the monitor may receive information on the applicable competition law	2. Member States shall ensure that the monitor may receive information on the applicable competition law G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	procedures and their outcomes that may affect the timing or the successful outcome of the bid, in particular through the disclosure of information by the bidders or the provision of a waiver to exchange information with competition authorities, where applicable. In that regard, the monitor shall be made subject to a duty of full confidentiality.	procedures and their outcomes that may affect the timing or the successful outcome of the bid, in particular through the disclosure of information by the bidders or the provision of a waiver to exchange information with competition authorities, where applicable. In that regard, the monitor shall be made subject to a duty of full confidentiality.	procedures and their outcomes that may affect the timing or the successful outcome of the bid, ~~in particular through~~**provided that** the disclosure of information by the ~~bidders or the provision of a waiver to exchange information with~~ competition ~~authorities, where applicable~~**authority is not contrary to national rules on the protection of business secrets**. In that regard, the monitor shall be made subject to a duty of ~~full~~ confidentiality **in accordance with national law**.	procedures and their outcomes that may affect the timing or the successful outcome of the bid, ~~*in particular through*~~***provided that*** the disclosure of information by the ~~*bidders or the provision of a waiver to exchange information with*~~ competition ~~*authorities, where applicable*~~***authority is not contrary to national rules on the protection of business secrets***. In that regard, the monitor shall be made subject to a duty of ~~*full*~~ confidentiality ***in accordance with national law***. Text Origin: Council Mandate
Article 35(3)				
307	3. Member States shall ensure that, where an offer entails an appreciable risk of a delay as referred to in paragraph 1, that offer may be disregarded, provided that both of the following conditions apply:	3. Member States shall ensure that, where an offer entails an appreciable risk of a delay as referred to in paragraph 1, that offer may be disregarded, provided that both of the following conditions apply:	3. Member States shall ensure that, where an offer entails an appreciable risk of a delay as referred to in paragraph 1, that offer may be disregarded, provided that both of the following conditions apply:	3. Member States shall ensure that, where an offer entails an appreciable risk of a delay as referred to in paragraph 1, that offer may be disregarded, provided that both of the following conditions apply:
Article 35(3), point (a)				
308	(a) such offer is not the only existing offer;	(a) such offer is not the only existing offer;	(a) such offer is not the only ~~existing~~ offer;	(a) such offer is not the only ~~*existing*~~ offer;

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: Council Mandate
Article 35(3), point (b)				
309	(b) the delay in the conclusion of the pre-pack business sale with the bidder concerned would result in a damage for the debtor's business or part thereof.	(b) the delay in the conclusion of the pre-pack business sale with the bidder concerned would result in a damage for the debtor's business or part thereof.	(b) the delay in the conclusion of the ~~pre-pack business sale with~~ **sale to** the bidder concerned would result in ~~a~~ damage ~~for~~**to** the debtor's business or part thereof.	(b) the delay in the conclusion of the ~~*pre-pack business sale with*~~ ***sale to*** the bidder concerned would result in ~~*a*~~ damage ~~*for*~~***to*** the debtor's business or part thereof. Text Origin: Council Mandate
Title V				
310	Title V DIRECTORS' DUTY TO REQUEST THE OPENING OF INSOLVENCY PROCEEDINGS AND CIVIL LIABILITY	Title V DIRECTORS' DUTY TO REQUEST THE OPENING OF INSOLVENCY PROCEEDINGS AND CIVIL LIABILITY	Title V DIRECTORS' DUTY TO REQUEST THE OPENING OF INSOLVENCY PROCEEDINGS AND CIVIL LIABILITY	Title V DIRECTORS' DUTY TO REQUEST THE OPENING OF INSOLVENCY PROCEEDINGS AND CIVIL LIABILITY
Article 36				
311	Article 36 Duty to request the opening of insolvency proceedings	Article 36 Duty to request the opening of insolvency proceedings	Article 36 ~~Duty to request the opening of insolvency proceedings~~**Duties of directors**	Article 36 ~~*Duty to request the opening of insolvency proceedings*~~***Duties of directors*** Text Origin: Council Mandate
Article 36, first paragraph				
312	Member States shall ensure that, where a legal entity becomes	Member States shall ensure that, where a legal entity becomes	**1.** Member States shall ensure that, where a ~~legal~~	***1.*** Member States shall ensure that, where a ***[***legal

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	insolvent, its directors are obliged to submit a request for the opening of insolvency proceedings with the court no later than 3 months after the directors became aware or can reasonably be expected to have been aware that the legal entity is insolvent.	insolvent, its directors ~~are obliged~~***have the duty*** to submit a request for the opening of insolvency proceedings with the court no later than 3 months after the directors became aware or can reasonably be expected to have ~~been~~***become*** aware that the legal entity is insolvent ***in accordance with national law***. ***Preventive restructuring proceedings are be excluded from that obligation.***	~~entity~~**company** becomes insolvent **in accordance with national law**, its directors ~~are obliged~~**have the duty to submit a request for the opening of insolvency proceedings, with the exception of preventive restructuring proceedings. In Member States where Regulation (EU) 2015/848 applies, the duty** to submit a request for the opening of insolvency proceedings **refers to proceedings set out in Annex A to that Regulation,** with the ~~court no later than 3 months after the directors became aware or can reasonably be expected to have been aware that the legal entity is insolvent~~**exception of preventive restructuring proceedings**.	~~entity~~***entity/company]*** becomes insolvent ***in accordance with national law***, its directors ~~are obliged~~***have the duty to submit a request for the opening of insolvency proceedings, with the exception of preventive restructuring proceedings. In Member States where Regulation (EU) 2015/848 applies, the duty*** to submit a request for the opening of insolvency proceedings ***refers to proceedings set out in Annex A to that Regulation,*** with the ~~court no later than 3 months after the directors became aware or can reasonably be expected to have been aware that the legal entity is insolvent~~***exception of preventive restructuring proceedings***. Council to come back on legal entity
Article 36, first paragraph a				
G 312a			**2. The request as referred to in paragraph 1 shall be submitted to the court or the authority competent for the insolvency proceedings within 3 months of the directors having become aware or being reasonably expected to have**	***2. The request as referred to in paragraph 1 shall be submitted to the court or the authority competent for the insolvency proceedings within 3 months of the directors having become aware or being reasonably expected to have become aware*** G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			become aware that the company is insolvent in accordance with national law.	***that the company is insolvent in accordance with national law.*** Text Origin: Council Mandate
Article 36, first paragraph b				
G 312b		***By way of derogation from paragraph 1, Member States may provide that the duty referred to therein does not apply to directors who are natural persons and are personally liable for all of the company's debts where:***		deleted
Article 36, first paragraph a, point (a)				
G 312c		***(a) the directors inform the public of the company's insolvency through a notification in a public register, at the latest within the deadline referred to in paragraph 1, in order to ensure that the creditors are able to request the opening of insolvency proceedings; or***		
Article 36, first paragraph a, point (b)				
G 312d		***(b) the directors take measures that are designed to avoid damage to the creditors of the insolvent company, provided that such measures were***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		reasonably likely to avoid such damage or secure a better outcome for creditors.		
Article 36a				
G 312e			**Article 36a** **Non-application or suspension of the duty to submit a request for the opening of insolvency proceedings**	***Article 36a*** ***Non-application or suspension of the duty to submit a request for the opening of insolvency proceedings*** Text Origin: Council Mandate
Article 36a, first paragraph				
G 312f			**1. Member States may provide that the duty referred to in Article 36(1) does not apply to directors who are natural persons and are personally liable for all of the company's debt.**	***1. Member States may provide that the duty referred to in Article 36(1) does not apply to directors who are natural persons and are personally liable for all of the company's debt.*** Text Origin: Council Mandate
Article 36a, second paragraph				
G 312g			**2. Member States may provide that the duty referred to in Article 36(1) can be discharged by way of informing the public of the company's insolvency through a notification**	***2. Member States may provide that the duty referred to in Article 36(1) can be discharged by way of informing the public of the company's insolvency through a notification in a public***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
			in a public register, at the latest within the deadline referred to in Article 36 (2), in order to ensure that the creditors are able to request the opening of insolvency proceedings.	***register, at the latest within the deadline referred to in Article 36 (2), in order to ensure that the creditors are able to request the opening of insolvency proceedings.*** Text Origin: Council Mandate	
Article 36a, third paragraph					
G	312h		**3. Member States may provide that the duty referred to in Article 36(1) is suspended if the directors take measures that are designed to avoid damage for the creditors of the insolvent company and ensure a level of protection of the general body of creditors that is equivalent to the protection provided by the duty referred to in Article 36(1).**	***3. Member States may provide that the duty referred to in Article 36(1) is suspended if the directors take measures that are designed to avoid damage for the creditors of the insolvent company and ensure a level of protection of the general body of creditors that is equivalent to the protection provided by the duty referred to in Article 36(1).*** Text Origin: Council Mandate	G
Article 37					
G	313	Article 37 Directors' civil liability	Article 37 ~~Directors'~~ Civil liability **of directors**	Article 37 ~~*Directors'*~~ Civil liability ***of directors***	G

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: Council Mandate
Article 37(1)				
314	1. Member States shall ensure that the insolvent legal entity's directors are liable for damages incurred by creditors as a result of their failure to comply with the obligation laid down in Article 36.	1. Member States shall ensure that the insolvent legal entity's directors are liable for damages incurred by creditors as a result of their failure to comply with the ~~obligation~~**duty** laid down in Article 36.	1. Member States shall ensure that the **directors of an** insolvent ~~legal entity's directors~~**company** are liable**, in accordance with national law, for damage caused to** ~~for damages incurred by~~ creditors as a result of their failure to comply with the ~~obligation laid down~~**duty referred to** in Article 36.	1. Member States shall ensure that the ***directors of an*** insolvent ***[***legal ~~*entity's directors*~~***entity/company]*** are liable***, in accordance with national law, for damage caused to*** ~~*for damages incurred by*~~ creditors as a result of their failure to comply with the ~~*obligation laid down*~~***duty referred to*** in Article 36. Council to come back on legal entity
Article 37(2)				
315	2. Paragraph 1 shall be without prejudice to national rules on civil liability for the breach of the duty of directors to submit a request for the opening of insolvency proceedings as set out in Article 36 that are stricter towards directors.	2. Paragraph 1 shall be without prejudice to national rules on civil liability for the breach of the duty of directors to submit a request for the opening of insolvency proceedings as set out in Article 36 that are stricter towards directors.	*deleted*	*linked to art. 3a(1)*
Article 37(2), first subparagraph				
G *315a*			**2. If Member States have exercised the option in Article 36a(3), they shall ensure that the**	*deleted* G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			directors who take measures referred to in Article 36a(3) are liable, in accordance with national law, for any damage caused to creditors that would not otherwise have been caused had the opening of insolvency proceedings been requested in accordance with Article 36.	*taken in 315c*
Article 37(2), second subparagraph				
G *315b*			**Member States may provide that such liability is excluded where and to the extent that the directors can demonstrate, on the basis of objective circumstances, that the measures taken could reasonably be expected to avoid damage to creditors, ensuring a level of protection of the general body of creditors which is equivalent to the protection provided by the duty referred to in Article 36(1).**	*deleted* *Taken in 315d.*
Article 37(2b)				
G *315c*		***2a. If Member States have exercised the option provided for in Article 36(1a), they shall ensure that directors who take measures as referred to therein are liable, in accordance with***		***2a. If Member States have exercised the option provided for in Article 36(1a), they shall ensure that directors who take measures as referred to therein are liable, in accordance with***

PRESS

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
		national law, for damage caused to creditors that would not otherwise have been caused had the opening of insolvency proceedings been requested in accordance with Article 36(1).		***national law, for damage caused to creditors that would not otherwise have been caused had the opening of insolvency proceedings been requested in accordance with Article 36(1).*** LL to check the reference. Text Origin: EP Mandate	
Article 37(2c)					
Y	315d	***2b. Member States may provide that such liability is excluded where and to the extent that the directors can demonstrate, on the basis of objective circumstances, that the measures taken could reasonably be expected to avoid damage to creditors, provided that such measures were reasonably likely to avoid such damage or secure a better outcome for creditors.***		***2b. Member States may provide that such liability is excluded where and to the extent that the directors can demonstrate, on the basis of objective circumstances, that the measures taken could reasonably be expected to avoid damage to creditors, provided that such measures were reasonably likely to avoid such damage or secure a equivalent or better outcome for creditors.*** Council will come back on wording.	Y
Article 37a					
G	315e		**Article 37a** **Relation to other instruments**	***Article 37a*** ***Relation to other instruments***	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: Council Mandate
Article 37a, first paragraph				
315f			**The provisions of this Title shall not affect national laws transposing Article 7 of Directive (EU) 2019/1023.**	***1. This Title shall not affect Article 7 of Directive (EU) 2019/1023.***
Title VI				
316	Title VI WINDING-UP OF INSOLVENT MICROENTERPRISES	*deleted*	*deleted*	*deleted*
Chapter 1				
317	Chapter 1 General rules	*deleted*	*deleted*	*deleted*
Article 38				
318	Article 38 Rules on winding-up of microenterprises	*deleted*	*deleted*	*deleted*
Article 38(1)				
319	*1.* Member States shall ensure that microenterprises, when insolvent, have access to simplified winding-up proceedings that comply with the provisions laid down in this Title.	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN	Commission Proposal	VS.EC	EP Mandate	VS.EC	Council Mandate	VS.EC	Draft Agreement	
Article 38(2)									
G	*320*	*2.* A microenterprise shall be deemed insolvent for the purposes of simplified winding-up proceedings when it is generally unable to pay its debts as they mature. Member States shall set out the conditions under which a microenterprise is deemed to be generally unable to pay its debts as they mature and ensure that these conditions are clear, simple and easily ascertainable by the microenterprise concerned.		*deleted*		*deleted*		*deleted*	G
Article 38(3)									
G	*321*	*3.* The opening and conduct of simplified winding-up proceedings may not be denied on the ground that the debtor has no assets or its assets are not sufficient to cover the costs of the simplified winding-up proceedings.		*deleted*		*deleted*		*deleted*	G
Article 38(4)									
G	*322*	*4.* Member States shall ensure that the costs of the simplified winding-up proceedings are covered in the situations set out in paragraph 3.		*deleted*		*deleted*		*deleted*	G
Article 39									

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	*323*	Article 39 Insolvency practitioner	*deleted*	*deleted*	*deleted*	G
	Article 39, first paragraph					
G	*324*	Member States shall ensure that in simplified winding-up proceedings an insolvency practitioner may only be appointed if both of the following conditions are met:	*deleted*	*deleted*	*deleted*	G
	Article 39, first paragraph, point (a)					
G	*325*	*(a)* the debtor, a creditor or a group of creditors requests such an appointment;	*deleted*	*deleted*	*deleted*	G
	Article 39, first paragraph, point (b)					
G	*326*	*(b)* the costs of the intervention of the insolvency practitioner can be funded by the insolvency estate or by the party that requested the appointment.	*deleted*	*deleted*	*deleted*	G
	Article 40					
G	*327*	Article 40 Means of communication	*deleted*	*deleted*	*deleted*	G
	Article 40, first paragraph					
G	*328*	Member States shall ensure that in simplified winding-up proceedings all communications between the competent authority and, where	*deleted*	*deleted*	*deleted*	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	relevant, the insolvency practitioner, on the one hand, and the parties to such proceedings, on the other hand, can be performed by electronic means, in accordance with Article 28 of Directive (EU) 2019/1023.			
Chapter 2				
G	*329* Chapter 2 Opening of simplified winding-up proceedings	*deleted*	*deleted*	*deleted*
Article 41				
G	*330* Article 41 Request for the opening of simplified winding-up proceedings	*deleted*	*deleted*	*deleted*
Article 41(1)				
G	*331* *1.* Member States shall ensure that insolvent microenterprises can submit a request for the opening of simplified winding-up proceedings to a competent authority.	*deleted*	*deleted*	*deleted*
Article 41(2)				
G	*332* *2.* Member States shall ensure that any creditor of an insolvent microenterprise can submit a request for the opening of simplified winding-up proceedings against the microenterprise to a	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	competent authority. The microenterprise concerned shall be given the opportunity to respond to the request, by contesting or consenting to it.			
Article 41(3)				
G	*333*	*3.* Member States shall ensure that microenterprises can submit a request for the opening of simplified winding-up proceedings using a standard form.	*deleted*	*deleted*	*deleted*	G
Article 41(4)				
G	*334*	*4.* The standard form referred to in paragraph 3 shall allow for the inclusion, among others, of the following information:	*deleted*	*deleted*	*deleted*	G
Article 41(4), point (a)				
G	*335*	*(a)* if the microenterprise is a legal person, the debtor's name, registration number, registered office or, if different, postal address;	*deleted*	*deleted*	*deleted*	G
Article 41(4), point (b)				
G	*336*	*(b)* if the microenterprise is an entrepreneur, the debtor's name, registration number, if any, and postal address or, where the	*deleted*	*deleted*	*deleted*	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
	address is protected, the debtor's place and date of birth;				
Article 41(4), point (c)					
G *337*	*(c)* a list of the assets of the microenterprise;	*deleted*	*deleted*	*deleted*	G
Article 41(4), point (d)					
G *338*	*(d)* name, address or other contact details of creditors of the microenterprise, as known to the microenterprise at the time of the submission of the request,	*deleted*	*deleted*	*deleted*	G
Article 41(4), point (e)					
G *339*	*(e)* the list of the claims against the microenterprise and, for each claim, its amount specifying the principal and, where applicable, interest and the date on which it arose and the date on which it became due, if different;	*deleted*	*deleted*	*deleted*	G
Article 41(4), point (f)					
G *340*	*(f)* if security in rem or a reservation of title is alleged in respect of a certain claim and, if so, what assets are covered by the security interest.	*deleted*	*deleted*	*deleted*	G
Article 41(5)					

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G	*341* 5. The Commission shall establish the standard form referred to in paragraph 3 by way of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 69(2)	*deleted*	*deleted*	*deleted*
Article 41(6)				
G	*342* 6. Member States shall ensure that when the request for opening simplified winding-up proceedings is submitted by a creditor, and the microenterprise expressed its consent to the opening of the proceedings, the microenterprise is required to submit the information listed in paragraph 4 together with the response referred to in paragraph 2 of this Article, where available.	*deleted*	*deleted*	*deleted*
Article 41(7)				
G	*343* 7. Member States shall ensure that when the request for opening simplified winding-up proceedings is submitted by a creditor and the competent authority opens such proceedings despite the microenterprise contesting or not responding to the request the microenterprise is	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	required to submit the information listed in paragraph 4 of this Article no later than two weeks following the receipt of the notice of opening.			
Article 42				
G *344*	Article 42 Decision on the request for the opening of simplified winding-up proceedings	*deleted*	*deleted*	*deleted* G
Article 42(1)				
G *345*	*1.* Member States shall ensure that the competent authority takes a decision on the request for the opening of simplified winding-up proceedings no later than two weeks after receiving the request.	*deleted*	*deleted*	*deleted* G
Article 42(2)				
G *346*	*2.* The opening of simplified winding-up proceedings may be refused only if one or more of the following conditions is fulfilled:	*deleted*	*deleted*	*deleted* G
Article 42(2), point (a)				
G *347*	*(a)* the debtor is not a microenterprise;	*deleted*	*deleted*	*deleted* G
Article 42(2), point (b)				

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	*348*	*(b)* the debtor is not insolvent pursuant to Article 38(2) of this Directive;	*deleted*	*deleted*	*deleted*	G
Article 42(2), point (c)						
G	*349*	*(c)* the competent authority where the request was submitted has no jurisdiction over the case;	*deleted*	*deleted*	*deleted*	G
Article 42(2), point (d)						
G	*350*	*(d)* the Member State where the request was submitted has no international jurisdiction over the case.	*deleted*	*deleted*	*deleted*	G
Article 42(3)						
G	*351*	*3.* Member States shall ensure that the microenterprise or any creditor of the microenterprise may challenge before a court the decision on the request for the opening of simplified winding-up proceedings. The challenge has no suspensive effect on the opening of simplified winding-up proceedings and shall be dealt with promptly by the court.	*deleted*	*deleted*	*deleted*	G
Article 43						
G	*352*	Article 43 Debtor in possession	*deleted*	*deleted*	*deleted*	G
Article 43(1)						

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	*353*	*1.* Member States shall ensure that, subject to the conditions laid down in paragraphs 2, 3 and 4, debtors accessing simplified winding-up proceedings remain in control of their assets and the day-to-day operation of the business.	*deleted*	*deleted*	*deleted*	G
Article 43(2)						
G	*354*	*2.* Member States shall ensure that, where an insolvency practitioner is appointed, the competent authority specifies in the decision on the appointment whether the rights and duties to manage and dispose of the debtor's assets are transferred to the insolvency practitioner.	*deleted*	*deleted*	*deleted*	G
Article 43(3)						
G	*355*	*3.* Member States shall specify the circumstances in which the competent authority may, exceptionally, decide to remove the debtor's right to manage and dispose of its assets. Such a decision must be based on a case-by-case assessment in view of all relevant elements of law and facts.	*deleted*	*deleted*	*deleted*	G
Article 43(4)						

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	*356*	*4.* Member States shall ensure that, where the debtor no longer holds the right to manage and dispose of its assets and no insolvency practitioner is appointed, one of the following applies:	*deleted*	*deleted*	*deleted*	G
Article 43(4), point (a)						
G	*357*	*(a)* any decision of the debtor to that effect becomes subject to the approval of the competent authority, or	*deleted*	*deleted*	*deleted*	G
Article 43(4), point (b)						
G	*358*	*(b)* the competent authority entrusts the right to manage and dispose of the assets of the debtor to a creditor.	*deleted*	*deleted*	*deleted*	G
Article 44						
G	*359*	Article 44 Stay of individual enforcement actions	*deleted*	*deleted*	*deleted*	G
Article 44(1)						
G	*360*	*1.* Member States shall ensure that debtors benefit from a stay of individual enforcement actions upon the decision of the competent authority to open simplified winding-up proceedings	*deleted*	*deleted*	*deleted*	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	and until the closure of that proceedings.			
Article 44(2)				
G *361*	*2.* Member States may provide that the competent authority excludes, upon request by the debtor or a creditor, a claim from the scope of the stay of individual enforcement actions where both of the following conditions are fulfilled:	*deleted*	*deleted*	*deleted* G
Article 44(2), point (a)				
G *362*	*(a)* the enforcement is not likely to jeopardise the legitimate expectations of the general body of creditors and;	*deleted*	*deleted*	*deleted* G
Article 44(2), point (b)				
G *363*	*(b)* the stay would unfairly prejudice the creditor of that claim.	*deleted*	*deleted*	*deleted* G
Article 45				
G *364*	Article 45 Publicity of the opening of simplified winding-up proceedings	*deleted*	*deleted*	*deleted* G
Article 45(1)				
G *365*	*1.* Member States shall ensure that the information on the opening of simplified winding-up	*deleted*	*deleted*	*deleted* G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	proceedings is published in the insolvency register referred to in Article 24 of Regulation (EU) 2015/848, as soon as possible after the opening.			
Article 45(2), first subparagraph				
G *366*	*2.* Member States shall ensure that the competent authority immediately informs the debtor and all known creditors, by individual notices, of the opening of simplified winding-up proceedings.	*deleted*	*deleted*	*deleted* G
Article 45(2), second subparagraph				
G *367*	The notice shall include, in particular:	*deleted*	*deleted*	*deleted* G
Article 45(2), second subparagraph, point (a)				
G *368*	*(a)* the list of claims against the debtor as indicated by the debtor;	*deleted*	*deleted*	*deleted* G
Article 45(2), second subparagraph, point (b)				
G *369*	*(b)* an invitation to the creditor to lodge any claims not included in the list referred to in point (a) or to rectify any incorrect statement on those claims no later than 30 days upon the receipt of the notice;	*deleted*	*deleted*	*deleted* G

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	CLEAN	Commission Proposal	VS.EC	EP Mandate	VS.EC	Council Mandate	VS.EC	Draft Agreement	
Article 45(2), second subparagraph, point (c)									
G	*370*	*(c)* a statement to the effect that, without further action by the creditor, the claims included in the list referred to in point (a) will be considered as lodged by the creditor concerned.		*deleted*		*deleted*		*deleted*	G
Chapter 3									
G	*371*	Chapter 3 List of claims and establishment of the insolvency estate		*deleted*		*deleted*		*deleted*	G
Article 46									
G	*372*	Article 46 Lodgement and admission of claims		*deleted*		*deleted*		*deleted*	G
Article 46(1)									
G	*373*	*1.* Member States shall ensure that the claims against the debtor are considered as lodged without any further action from the creditors concerned, where those claims are indicated by the debtor in one of the following submissions:		*deleted*		*deleted*		*deleted*	G
Article 46(1), point (a)									
G	*374*	*(a)* in its request for the opening of simplified winding-up proceedings;		*deleted*		*deleted*		*deleted*	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
Article 46(1), point (b)					
G	*375*	*(b)* in its response to the request for the opening of such proceedings submitted by a creditor;	*deleted*	*deleted*	*deleted* G
Article 46(1), point (c)					
G	*376*	*(c)* in its submission pursuant to Article 41(7).	*deleted*	*deleted*	*deleted* G
Article 46(2)					
G	*377*	*2.* Member States shall ensure that any creditor may lodge claims not contained in the submissions referred to in paragraph 1 or make statements of objection or raise concern on claims included in one of that submissions, within 30 days from the publication of the date of the opening of simplified winding-up proceedings in the insolvency register or, in case of a known creditor, of the receipt of the individual notice referred to in Article 45 whichever is the latest.	*deleted*	*deleted*	*deleted* G
Article 46(3)					
G	*378*	*3.* Member States shall ensure that, in the absence of any objection or concern	*deleted*	*deleted*	*deleted* G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	communicated by a creditor within the time period indicated in paragraph 2, a claim included in the submissions referred to in paragraph 1 is deemed to be undisputed and shall be definitively admitted as stated therein.			
Article 46(4)				
G *379*	*4.* Member States shall ensure that the competent authority or, where appointed, the insolvency practitioner may admit or deny admission of claims lodged by a creditor, in addition to the claims referred to in paragraph 1, in accordance with paragraph 2 and the appropriate criteria defined by national law.	*deleted*	*deleted*	*deleted*
Article 46(5)				
G *380*	*5.* Member States shall ensure that the disputed claims are dealt with promptly either by the competent authority or by a court. The competent authority may decide to continue the simplified winding-up proceedings with respect to undisputed claims.	*deleted*	*deleted*	*deleted*
Article 47				
G *381*	Article 47			

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	Avoidance actions	*deleted*	*deleted*	*deleted*
Article 47, first paragraph				
382	Member States shall ensure that the rules on avoidance actions apply as follows in simplified winding-up proceedings:	*deleted*	*deleted*	*deleted*
Article 47, first paragraph, point (a)				
383	*(a)* the pursuit and enforcement of avoidance actions shall not be mandatory, but shall be left to the discretion of creditors or, when applicable, of the insolvency practitioner;	*deleted*	*deleted*	*deleted*
Article 47, first paragraph, point (b)				
384	*(b)* any decision by creditors not to commence avoidance actions shall not affect the liability of the debtor under civil or criminal law, where it is later discovered that the information communicated by the debtor about assets or liabilities was concealed or forged;	*deleted*	*deleted*	*deleted*
Article 47, first paragraph, point (c)				
385	*(c)* the competent authority may convert simplified winding-up proceedings into standard insolvency proceedings, where the	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	conduct of avoidance proceedings under simplified winding-up proceedings would not be possible due to the significance of the claims subject to avoidance proceedings in relation to the value of the insolvency estate, and due to the anticipated length of avoidance proceedings.			
Article 48				
G	*386*	Article 48 Establishment of the insolvency estate	*deleted*	*deleted*	*deleted*
Article 48(1)				
G	*387*	*1.* Member States shall ensure that the competent authority or, where appointed, the insolvency practitioner, determines the final list of assets that constitute the insolvency estate, on the basis of the list of assets submitted by the debtor as referred to Article 41(4), point (c) and of the relevant additional information received thereafter.	*deleted*	*deleted*	*deleted*
Article 48(2)				
G	*388*	*2.* The assets of the insolvency estate shall include assets in the possession of the debtor at the time of the opening	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	of simplified winding-up proceedings, assets acquired after the submission of the request for opening of such proceedings and assets recovered through avoidance actions or other actions.			
Article 48(3)				
389	*3.* Member States shall ensure that, where the debtor is an entrepreneur, the competent authority or, if appointed, the insolvency practitioner specifies which assets are excluded from the insolvency estate and can therefore be retained by the debtor.	*deleted*	*deleted*	*deleted*
Chapter 4				
390	Chapter 4 Realisation of the assets and distribution of the proceeds	*deleted*	*deleted*	*deleted*
Article 49				
391	Article 49 Decision on the procedure to be used	*deleted*	*deleted*	*deleted*
Article 49(1)				
392	*1.* Member States shall ensure that in simplified winding-up proceedings once the insolvency estate has been established and the list of claims	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	against the debtor has been determined, the competent authority:			
Article 49(1), point (a)				
393	*(a)* proceeds with the realisation of the assets and the distribution of the proceeds; or	*deleted*	*deleted*	*deleted*
Article 49(1), point (b)				
394	*(b)* takes a decision on the closure of the simplified winding-up proceedings without any realisation of the assets, in accordance with paragraph 2.	*deleted*	*deleted*	*deleted*
Article 49(2)				
395	*2.* Member States shall ensure that the competent authority can take a decision on the immediate closure of the simplified winding-up proceedings without any realisation of the assets, only if any of the following conditions is fulfilled:	*deleted*	*deleted*	*deleted*
Article 49(2), point (a)				
396	*(a)* there are no assets in the insolvency estate;	*deleted*	*deleted*	*deleted*
Article 49(2), point (b)				

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	*397*	*(b)* the assets of the insolvency estate are of such a low value that it would not justify the costs or time of their sale and of the distribution of proceeds;	*deleted*	*deleted*	*deleted*	G
Article 49(2), point (c)						
G	*398*	*(c)* the apparent value of encumbered assets is lower than the amount owed to the secured creditor(s) and the competent authority considers it justified to allow those secured creditor(s) to take over the asset(s).	*deleted*	*deleted*	*deleted*	G
Article 49(3)						
G	*399*	*3.* Member States shall ensure that, where the competent authority proceeds with the realisation of the debtor's assets as referred to in paragraph 1, point (a), the competent authority also specifies the means of realisation of the assets. Other means than the sale of the debtor's assets through an electronic public auction may only be selected, if their use is deemed more appropriate in light of the nature of the assets or the circumstances of the proceedings.	*deleted*	*deleted*	*deleted*	G
Article 50						
G	*400*	Article 50				G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	Electronic auction systems for the sale of the assets of the debtor	*deleted*	*deleted*	*deleted*
Article 50(1), first subparagraph				
G *401*	*1.* Member States shall ensure that one or several electronic auction platforms are established and maintained in their territory for the purpose of the sale of the assets of the insolvency estate in simplified winding-up proceedings.	*deleted*	*deleted*	*deleted* G
Article 50(1), second subparagraph				
G *402*	Member States may set out that for the purpose of the sale of the debtor's assets users may also place bids for the purchase of the debtor's business as a going concern.	*deleted*	*deleted*	*deleted* G
Article 50(2)				
G *403*	*2.* Member States shall ensure that the electronic auction platforms, as referred to in paragraph 1, are used whenever the debtor's business or assets subject to simplified winding-up proceedings are realised through auction.	*deleted*	*deleted*	*deleted* G
Article 50(3)				

PUBLIC

	CLEAN	Commission Proposal	VS.EC	EP Mandate	VS.EC	Council Mandate	VS.EC	Draft Agreement	
G	*404*	*3.* Member States may extend the use of the electronic auction systems, as referred to in paragraph 1, to the sale of the debtor's business or assets that are subject to other types of insolvency proceedings opened in their territory.		*deleted*		*deleted*		*deleted*	G
Article 50(4)									
G	*405*	*4.* Member States shall ensure that the electronic auction platforms, as referred to in paragraph 1, are accessible by all natural and legal persons with domicile or place of registration in their territory or in the territory of another Member State. Access to the auction system may be subject to electronic identification of the user, in which case persons with domicile or place of registration in another Member State shall be able to use their national electronic identification schemes, in accordance with Regulation (EU) No 910/2014[1] _____ 1. Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic		*deleted*		*deleted*		*deleted*	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).			
Article 51				
406	Article 51 Interconnection of the electronic auction systems	*deleted*	*deleted*	*deleted*
Article 51(1)				
407	*1.* The Commission shall establish a system for the interconnection of the national electronic auction systems as referred to in Article 50 by means of implementing acts. The system shall be composed of national electronic auction systems interconnected via the European e-Justice Portal, which shall serve as a central electronic access point in the system. The system shall contain in all the official languages of the Union information on all auction processes announced in national electronic auction platforms, enable the search among these auction processes and provide hyperlinks leading to the pages of	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	the national systems where offers may be directly submitted.			
Article 51(2), first subparagraph				
G *408*	*2.* The Commission shall lay down by means of implementing acts technical specifications and procedures necessary to provide for the interconnection of Member States' national electronic auction systems, setting out:	*deleted*	*deleted*	*deleted* G
Article 51(2), first subparagraph, point (a)				
G *409*	*(a)* the technical specification or specifications defining the methods of communication and information exchange by electronic means on the basis of the established interface specification for the system of interconnection of the electronic auction systems;	*deleted*	*deleted*	*deleted* G
Article 51(2), first subparagraph, point (b)				
G *410*	*(b)* the technical measures ensuring the minimum information technology security standards for communication and distribution of information within the system of interconnection of electronic auction systems;	*deleted*	*deleted*	*deleted* G
Article 51(2), first subparagraph, point (c)				

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	*411*	*(c)* the minimum set of information that shall be made accessible through the central platform;	*deleted*	*deleted*	*deleted*	G
Article 51(2), first subparagraph, point (d)						
G	*412*	*(d)* the minimum criteria for the presentation of announced auction processes via the European e-Justice Portal;	*deleted*	*deleted*	*deleted*	G
Article 51(2), first subparagraph, point (e)						
G	*413*	*(e)* the minimum criteria for the search of announced auction processes via the European e-Justice Portal;	*deleted*	*deleted*	*deleted*	G
Article 51(2), first subparagraph, point (f)						
G	*414*	*(f)* minimum criteria for guiding the users to the platform of the national auction system of the Member State where they may submit their offers directly in the announced auction processes;	*deleted*	*deleted*	*deleted*	G
Article 51(2), first subparagraph, point (g)						
G	*415*	*(g)* the means and the technical conditions of availability of services provided by the system of interconnection;	*deleted*	*deleted*	*deleted*	G
Article 51(2), first subparagraph, point (h)						

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 416	*(h)* the use of the European unique identifier referred to in Article 16(1) of Directive (EU) 2017/1132[1], _____ 1. Article 16(1) of Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law	*deleted*	*deleted*	*deleted*
Article 51(2), first subparagraph, point (i)				
G 417	*(i)* specification of which personal data can be accessed;	*deleted*	*deleted*	*deleted*
Article 51(2), first subparagraph, point (j)				
G 418	*(j)* data protection safeguards.	*deleted*	*deleted*	*deleted*
Article 51(2), second subparagraph				
G 419	Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 69(2), by [one year after the transposition deadline].	*deleted*	*deleted*	*deleted*
Article 52				
G 420	Article 52	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	Costs of establishing and interconnecting electronic auction systems			
Article 52(1)				
421	*1.* The establishment, maintenance and future development of the system of interconnection of electronic auction systems as referred to in Article 50 shall be financed from the general budget of the Union.	*deleted*	*deleted*	*deleted*
Article 52(2)				
422	*2.* Each Member State shall bear the costs of establishing and adjusting its national electronic auction systems to make them interoperable with the European e-Justice Portal, as well as the costs of administering, operating and maintaining those systems. This shall be without prejudice to the possibility to apply for grants to support such activities under the Union's financial programmes.	*deleted*	*deleted*	*deleted*
Article 53				
423	Article 53 Responsibilities of the Commission in connection with the processing of personal data in	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	the system of interconnection of electronic auction platforms			
Article 53(1)				
G *424*	*1.* The Commission shall exercise the responsibilities of controller pursuant to Article 3(8) of Regulation (EU) 2018/1725 in accordance with its respective responsibilities defined in this Article.	*deleted*	*deleted*	*deleted* G
Article 53(2)				
G *425*	*2.* The Commission shall define the necessary policies and apply the necessary technical solutions to fulfil its responsibilities within the scope of the function of controller.	*deleted*	*deleted*	*deleted* G
Article 53(3)				
G *426*	*3.* The Commission shall implement the technical measures required to ensure the security of personal data while in transit, in particular the confidentiality and integrity of any transmission to and from the European e-Justice Portal.	*deleted*	*deleted*	*deleted* G
Article 53(4)				
G *427*	*4.* With regard to the information from the	*deleted*	*deleted*	*deleted* G

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	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	interconnected national auction systems, no personal data relating to data subjects shall be stored in the European e-Justice Portal. All such data shall be stored in the national auction systems operated by the Member States or other bodies.			
Article 54				
G *428*	Article 54 Sale of the assets by electronic auction	*deleted*	*deleted*	*deleted* G
Article 54(1)				
G *429*	*1.* Member States shall ensure that the electronic auction of assets of the insolvency estate in simplified winding-up proceedings is announced in due time in advance on the electronic auction platform referred to in Article 50.	*deleted*	*deleted*	*deleted* G
Article 54(2)				
G *430*	*2.* Member States shall ensure that the competent authority or, where relevant, the insolvency practitioner, informs through individual notices all known creditors on the object, time and date of the electronic	*deleted*	*deleted*	*deleted* G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
	auction, as well as on the requirements to participate therein.				
Article 54(3)					
G *431*	*3.* Member States shall ensure that any interested person, including the existing shareholders or directors of the debtor, are allowed to participate in the electronic auction and bid.	*deleted*	*deleted*	*deleted*	G
Article 54(4)					
G *432*	*4.* If there are bids both on the acquisition of the debtor's business as a going concern and on the individual assets of the insolvency estate, creditors shall decide which of the alternatives they prefer.	*deleted*	*deleted*	*deleted*	G
Article 55					
G *433*	Article 55 Decision on the closure of the simplified winding-up proceedings	*deleted*	*deleted*	*deleted*	G
Article 55(1)					
G *434*	*1.* Member States shall ensure that after the distribution of proceeds of the sale of the debtor's business or assets, the competent authority takes a decision on the closure of the simplified winding-up proceedings no later than two	*deleted*	*deleted*	*deleted*	G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	weeks after the distribution of proceeds has been completed.			
Article 55(2)				
435	*2.* Member States shall ensure that the decision on the closure of the simplified winding-up proceedings includes a specification of the time period leading to the discharge of the entrepreneur debtor or of those founders, owners or members of an unlimited liability microenterprise debtor who are personally liable for the debts of the debtor.	*deleted*	*deleted*	*deleted*
Chapter 5				
436	Chapter 5 Discharge of entrepreneurs in simplified winding-up proceedings	*deleted*	*deleted*	*deleted*
Article 56				
437	Article 56 Access to discharge	*deleted*	*deleted*	*deleted*
Article 56, first paragraph				
438	Member States shall ensure that in simplified winding-up proceedings entrepreneur debtors, as well as those founders, owners or members of an unlimited liability	*deleted*	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
	microenterprise debtor who are personally liable for the debts of the microenterprise are fully discharged from their debts in accordance with Title III of Directive (EU) 2019/1023.				
Article 57					
G *439*	Article 57 Treatment of personal guarantees provided for business-related debts	*deleted*	*deleted*	*deleted*	G
Article 57, first paragraph					
G *440*	Member States shall ensure that where insolvency proceedings or individual enforcement proceedings have been brought over the personal guarantee provided for the business needs of a microenterprise that is debtor in simplified winding-up proceedings against a guarantor who, in case the microenterprise concerned is a legal person, is a founder, owner or member of that legal person, or, in case the microenterprise concerned is an entrepreneur, a family member of that entrepreneur, the proceedings on the personal guarantee are either coordinated or consolidated with the simplified winding-up proceedings.	*deleted*	*deleted*	*deleted*	G

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
	Title VII					
G	*441*	Title VII CREDITORS' COMMITTEE	Title VII CREDITORS' COMMITTEE	Title VII CREDITORS~~'~~" COMMITTEE	Title VII CREDITORS~~'~~" COMMITTEE Text Origin: Council Mandate	G
	Chapter 1					
G	442	Chapter 1 Establishment and members of the creditors' committee	Chapter 1 Establishment and members of the creditors' committee	Chapter 1 Establishment and members of the creditors' committee	Chapter 1 Establishment and members of the creditors' committee	G
	Article 58					
G	443	Article 58 Establishment of the creditors' committee	Article 58 Establishment of the creditors' committee	Article 58 Establishment of the creditors~~'~~" committee	Article 58 Establishment of the creditors~~'~~" committee Text Origin: Council Mandate	G
	Article 58(1)					
Y	444	1. Member States shall ensure that a creditors' committee is established only if the general meeting of creditors so decides.	1. Member States shall ensure that a creditors' committee is established only if the general meeting of creditors so decides.	1. Member States shall ensure that a creditors' committee is established ~~only~~**after the opening of insolvency proceedings at least** if the general meeting of creditors so decides **or requests or, where national law does not provide for a general meeting of creditors, if creditors so request in accordance with national law**.	1. Member States shall ensure that a creditors' committee is established ~~only~~***after the opening of insolvency proceedings at least*** if the general meeting of creditors so decides ***or requests or, where national law does not provide for a general meeting of creditors, if creditors so request in accordance with national law***.	Y

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	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				EP counterproposal: Member States shall ensure that a creditors' committee is established after the opening of insolvency proceedings ~~at least~~ if the general meeting of creditors so decides or requests or, where national law does not provide for a general meeting of creditors, if creditors so request in accordance with national law. Text Origin: Council Mandate
Article 58(2), first subparagraph				
445	2. By way of derogation from paragraph (1) Member States may provide that, before the opening of insolvency proceedings, the creditors' committee can be established as of the submission of a request for the opening of insolvency proceedings where one or more creditors submit a request to the court for the establishment of such committee.	2. By way of derogation from paragraph (1) Member States may provide that, before the opening of insolvency proceedings, the creditors' committee can be established as of the submission of a request for the opening of insolvency proceedings where one or more creditors submit a request to the court for the establishment of such committee.	2. ~~By way of derogation from paragraph (1)~~ Member States may provide that~~, before the opening of insolvency proceedings~~, the creditors' committee can be established ~~as of the submission of a request for~~**before** the opening of insolvency proceedings ~~where one or more creditors submit a request to the court for the establishment of such committee~~**in accordance with national law**.	2. ~~*By way of derogation from paragraph (1)*~~ Member States may provide that~~*, before the opening of insolvency proceedings*~~, the creditors' committee can be established ~~*as of the submission of a request for*~~***before*** the opening of insolvency proceedings ~~*where one or more creditors submit a request to the court for the establishment of such committee*~~***in accordance with national law***. EP counterproposal: Member States may provide that, the creditors' committee can be established before the opening of insolvency

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				proceedings in accordance with national law, if creditors so request in accordance with national law. Text Origin: Council Mandate
Article 58(2), second subparagraph				
446	Member States shall ensure that the first general meeting of creditors decides on the continuation and the composition of the creditors' committee established in accordance with subparagraph 1.	Member States shall ensure that the first general meeting of creditors decides on the continuation and the composition of the creditors' committee established in accordance with subparagraph 1.	**2a.** Member States shall ensure that the ~~first general meeting of creditors decides on the continuation and the composition~~**number of members** of the creditors' committee ~~established in accordance with subparagraph 1~~**does not exceed 7**.	EP counterproposal: Member States shall ensure that once the creditors' committee is established, the composition of the creditors' committee shall be decided upon. **Question to the Member States:** **The EP has proposed the counterproposal above. The point in time where the composition should be decided upon is deleted. Taken into account that the number of members of the creditors' committee will be deleted, can the Member States accept the EP counterproposal?**
Article 58(2), second subparagraph a				
446a			**Member States may provide for a higher number of members of the creditors' committee in**	EP suggests to delete it

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			particularly complex insolvency proceedings.	
Article 58(3)				
447	3. Member States may exclude in national law the possibility to establish a creditors' committee in insolvency proceedings, when the overall costs of the involvement of such a committee are not justified in view of the low economic relevance of the insolvency estate, of the low number of creditors or the circumstance that the debtor is a microenterprise.	3. Member States may exclude in national law the possibility to establish a creditors' committee in insolvency proceedings, when***, due to the nature and scope of the debtor's business,*** the overall costs of the involvement of such a committee are not justified in view of the low economic relevance of the insolvency estate, of the low number of creditors or the circumstance that the debtor is a microenterprise.	3. Member States may ~~exclude in national law the possibility to establish~~ **provide that** a creditors' committee ~~in insolvency proceedings, when the overall costs~~**is not established where, due to circumstances related to the nature and scope** of the ~~involvement of such a~~**debtor's business, it determines that the establishment of the creditors'** committee ~~are not justified in view of the low economic relevance of the insolvency estate, of the low number of creditors or the circumstance that the debtor is a microenterprise~~**would outweigh the benefits**.	Member States may provide that a creditors' committee is not established where, due to circumstances related to the nature and scope of the debtor's business, it determines that the costs and burdens of the establishment would outweigh the benefits. Member States shall ensure that these circumstances, which may include the low economic relevance of the insolvency estate, the low number of creditors or the small size of the debtor, are clearly defined in national law. COM proposal accepted by the EP **Question to the Member States:** **EP thinks that "the establishment of the creditors' committee would outweigh the benefits" is an unclear wording. We considered bringing the mention of "the cost and burdens of the establishment" from recital 48 in the Council position.**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Can the Member States accept the following wording: **"Member States may provide that a creditors' committee is not established where, due to circumstances related to the nature and scope of the debtor's business, it determines that the cost and burdens of the establishment would outweigh the benefits."**
Article 58(3), second subparagraph				
447a			**Member States shall ensure that these circumstances are clearly defined in national law.**	covered by the COM proposal above **<u>Question to the Member States:</u>** **The EP prefers that the "circumstances" are exemplified.** **Can the Member States accept the following wording:** **"Member States shall ensure that these circumstances, which may include the low economic relevance of the insolvency estate, the low number of creditors or the small size of the**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				debtor, are clearly defined in national law."
Article 59				
448	Article 59 Appointment of the members of the creditors' committee	Article 59 Appointment of the members of the creditors' committee	Article 59 ~~Appointment of the members~~**Composition** of the creditors' committee	EP prefers the COM/EP text
Article 59(1)				
449	1. Member States shall ensure that the members of the creditors' committee are appointed either at the general meeting of creditors or by decision of the court, within 30 days from the date of the opening of the proceedings as referred to in Article 24(2), point (a) of Regulation (EU) 2015/848.	1. ***Where a creditors' committee is established pursuant to Article 58,*** Member States shall ensure that the members of the creditors' committee are appointed either at the general meeting of creditors or by decision of the court, within 30 days from the date of the opening of the ***insolvency*** proceedings ~~*as referred to in Article 24(2), point (a) of Regulation (EU) 2015/848*~~.	*deleted*	*Council will check 30 days from a decision to establish the creditors' committee.*
Article 59(2)				
G *450*	*2.* Where the members of the creditors' committee are appointed at the general meeting of creditors, Member States shall ensure that the court certifies the appointment within 5 days from the date of the communication of the appointment to the court.	2. Where the members of the creditors' committee are appointed at the general meeting of creditors, Member States shall ensure that the court certifies the appointment within 5 ***working*** days from the date of the communication of the appointment to the court.	*deleted*	*deleted* G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 59(3)				
451	*3.* Member States shall ensure that the appointed members of the creditors' committee fairly reflect the different interests of creditors or groups thereof.	3. Member States shall ensure that the appointed members of the creditors' committee fairly reflect the different interests of creditors or groups thereof.	3. Member States shall ensure that the ~~appointed members~~**composition** of the creditors' committee fairly ~~reflect~~**reflects, as far as possible,** the different interests of creditors ~~or groups thereof~~**. Member States may provide that persons and entities other than creditors, in accordance with national law, are eligible for the appointment to the creditors' committee**.	COM proposal combining lines 451 and 451a: Member States shall ensure that the composition of the creditors' committee fairly reflects, as far as possible, the different interests of creditors. Member States may provide that persons and entities other than creditors, with a legitimate interest in accordance with national law, such as employees' representatives or creditors' associations, are eligible for the appointment to the creditors' committee. COM proposal has not been accepted by EP
Article 59(3a)				
451a		***3a. When workers are among the creditors, Member States shall ensure that the creditors' committee can include members who are workers or their representatives. Individuals who are not themselves creditors may also be appointed as members of the creditors' committee only if they represent the interests of a group of creditors.***		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 59(4)				
452	4. Member States shall ensure that creditors whose claims have only been provisionally admitted and cross-border creditors are also eligible for the appointment to the creditors' committee.	4. Member States shall ensure that creditors whose claims have only been provisionally admitted and cross-border creditors are also eligible for the appointment to the creditors' committee.	4. Member States shall ensure that ~~creditors whose claims have only been provisionally admitted and~~ cross-border creditors are ~~also~~ eligible for the appointment to the creditors' committee.	4. Member States shall ensure that ~~*creditors whose claims have only been provisionally admitted and*~~ cross-border creditors are ~~*also*~~ eligible for the appointment to the creditors' committee. Text Origin: Council Mandate
Article 59(5)				
453	5. Member States shall ensure that any interested party may challenge before the court the appointment of one or more members of the creditors' committee on the ground that the appointment was not done in accordance with applicable law.	5. Member States shall ensure that any interested party may challenge before the court the appointment of one or more members of the creditors' committee on the ground that the appointment was not done in accordance with applicable law.	*deleted*	*EP wishes to keep the COM/EP text*
Article 60				
454	Article 60 Duty of creditors as members of the creditors' committee	Article 60 Duty of creditors as members of the creditors' committee	*deleted*	
Article 60(1), first subparagraph				
455	*1.* Member States shall ensure that members of the creditors' committee represent solely the interests of the whole	1. Member States shall ensure that members of the creditors' committee represent solely the interests of the whole	*deleted*	*Linked to COM proposal in lines 484a Council and 457a EP*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	body of creditors and act independently of the insolvency practitioner.	body of creditors**, *in a fair and unbiased way*** and act independently of the insolvency practitioner.		
Article 60(1), second subparagraph				
456	By way of derogation from the previous subparagraph, Member States may maintain national provisions that allow to set up more than one creditors' committee representing different groups of creditors in the same insolvency proceedings. In this case, the members of the creditors' committee represent solely the interests of the creditors who appointed them.	*deleted*	*deleted*	*deleted*
Article 60(2)				
457	*2.* The creditors' committee owes the duties to all creditors it represents.	2. The creditors' committee owes the duties to all creditors it represents.	*deleted*	*deleted*
Article 60(2a)				
457a		***2a. Member States shall ensure that the members of the creditors' committee act in good faith when carrying out the functions of the committee.***		*deleted* *linked to COM proposal in 484a*
Article 61				
458	Article 61	~~*Article 61*~~		

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	Number of members	*deleted*	*deleted*	*deleted*
Article 61, first paragraph				
459	Member States shall ensure that the number of members composing the creditors' committee is at least 3 and does not exceed 7.	*deleted*	*deleted*	*deleted*
Article 62				
460	Article 62 Removal of a member and replacement	Article 62 Removal of a member and replacement	Article 62 Removal of a member and replacement	Article 62 Removal of a member and replacement
Article 62(1)				
461	1. Member States shall lay down rules specifying both the grounds for removal and replacement of members of the creditors' committee and the related procedures. Those rules shall also cater for the situation where members of the creditors' committee resign or are unable to perform the required functions, such as in cases of serious illness or death.	1. Member States shall lay down rules specifying both the grounds for removal and replacement of members of the creditors' committee and the related procedures. Those rules shall also cater for the situation where members of the creditors' committee resign or are unable to perform the required functions, such as in cases of serious illness or death.	1. Member States shall lay down rules specifying ~~both~~ the grounds **and procedures for the**~~for~~ removal and replacement of members of the creditors' committee ~~and the related procedures~~. Those rules shall also ~~cater~~**provide** for the situation where members of the creditors' committee resign or are unable to perform ~~the required functions, such as in cases of serious illness or death~~**their duties**.	1. Member States shall lay down rules specifying ~~*both*~~ the grounds ***and procedures for the***~~*for*~~ removal and replacement of members of the creditors' committee ~~*and the related procedures*~~. Those rules shall also ~~*cater*~~***provide*** for the situation where members of the creditors' committee resign or are unable to perform ~~*the required functions, such as in cases of serious illness or death*~~***their duties***.

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: Council Mandate
Article 62(2)				
462	2. Grounds for removal shall at least include fraudulent or grossly negligent conduct, wilful misconduct, or breach of fiduciary duties with respect to the creditors' interests.	2. Grounds for removal shall at least include fraudulent or grossly negligent conduct, ***conflicts of interest***, wilful misconduct, or breach of fiduciary duties with respect to the creditors' interests.	2. Grounds for removal **referred to in paragraph 1** shall at least include ~~fraudulent~~**intentional** or grossly negligent ~~conduct, wilful misconduct, or breach of fiduciary~~**violation of serious gravity of** duties with respect to the creditors' interests.	EP counterproposal: Grounds for removal referred to in paragraph 1 shall at least include intentional or grossly negligent violation of duties with respect to the creditors' interests, including conflicts of interest.
Chapter 2				
G 463	Chapter 2 Working methods and function of the creditors' committee	Chapter 2 Working methods and function of the creditors' committee	Chapter 2 Working methods and function of the creditors' committee	Chapter 2 Working methods and function of the creditors' committee G
Article 63				
G 464	Article 63 Working method of the creditors' committee	Article 63 Working method of the creditors' committee	Article 63 Working method of the creditors'' committee	Article 63 Working method of the creditors-'' committee Text Origin: Council Mandate G
Article 63(1)				
465	1. Member States shall ensure that a creditors' committee lays down a protocol of working methods within 15 working days	1. Member States shall ensure that a creditors' committee lays down a protocol of working methods within 15 working days	1. Member States shall ~~ensure that a creditors' committee lays down a protocol of working methods within 15 working days~~	EP ok to the Council text if EP counterproposal on 471 accepted

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	following the appointment of the members. If the creditors' committee fails to comply with this obligation, the court shall be empowered to lay down the protocol on behalf of the creditors' committee within 15 working days following the expiry of the first 15 working day period. In the first meeting of the creditors' committee, its members shall approve the working methods by simple majority of the present members.	following the appointment of the members. If the creditors' committee fails to comply with this obligation, the court shall be empowered to lay down the protocol on behalf of the creditors' committee within 15 working days following the expiry of the first 15 working day period. In the first meeting of the creditors' committee, its members shall approve the working methods by simple majority of the present members.	~~following the appointment of the members. If the creditors' committee fails to comply with this obligation, the court shall be empowered to~~ lay down ~~the protocol on behalf of the creditors' committee within 15 working days following the expiry of the first 15 working day period. In the first meeting of the creditors' committee, its members shall approve the working methods by simple majority of the present members.~~**rules specifying:**	
Article 63(1), point (a)				
465a	(b) eligibility to vote and the necessary quorum; Moved reference text		~~(b)~~**(a)** ~~eligibility to vote~~**the voting procedure** and the necessary quorum; Moved from row 468 [468 - 465a]	Council to check: the voting procedure, including [eligibility to vote] and the necessary quorum
Article 63(1), point (b)				
G 465b	(c) conflict of interests; Moved reference text		~~(c)~~**(b)** conflict of interests; Moved from row 469 [469 - 465b]	G
Article 63(1), point (c)				
G 465c	(d) confidentiality of information. Moved reference text		~~(d)~~**(c)** confidentiality of information. Moved from row 470 [470 - 465c]	G
Article 63(1), point (d)				

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
465d			**(d) record keeping of the decisions taken by the creditors' committee.**	
Article 63(2)				
466	2. That protocol referred to in paragraph (1) shall at least address the following matters:	2. That protocol referred to in paragraph (1) shall at least address the following matters:	*deleted*	*EP ok to the Council text if EP counterproposal on 471 accepted*
Article 63(2), point (-a)				
466a		***(-a) the scope of the creditors' committee's duties;***		EP: to be moved to 63(1) as letter (e)
Article 63(2), point (a)				
467	(a) eligibility to attend and participate in the creditors' committee's meetings;;	(a) eligibility to attend and participate in the creditors' committee's meetings;;	*deleted*	*deleted*
Article 63(2), point (b)				
468	*(b)* eligibility to vote and the necessary quorum;	(b) eligibility to vote and the necessary quorum;	*deleted* *Moved to row 465a [468 - 465a]*	*deleted*
Article 63(2), point (c)				
469	*(c)* conflict of interests;	(c) conflict of interests;	*deleted*	*deleted*
Article 63(2), point (d)				
470	*(d)* confidentiality of information.	(d) confidentiality of information.	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 63(3)				
471	*3.* Member States shall ensure that the protocol referred to in paragraph (1) is available to all creditors, the court and the insolvency practitioner.	3. Member States shall ensure that the protocol referred to in paragraph (1) is available to all creditors, the court and the insolvency practitioner.	*deleted*	EP proposal: Member States shall ensure the possibility that the working methods may be further specified by means of protocols. Such protocol shall be made available to all creditors, the court and the insolvency practitioner **<u>Question to the Member States:</u>** **The EP can accept lines 465 and 466 if the Council accepts the following wording:** **"Member States shall ensure the possibility that the working methods may be further specified by means of protocols. Such protocol shall be made available to all creditors, the court and the insolvency practitioner."** **Can the Member States accept the wording in spirit of compromise?**
Article 63(4)				
G *472*	*4.* Member States shall ensure that the members of the creditors' committee are given the	4. Member States shall ensure that the members of the creditors' committee are given the	4. Member States shall ~~ensure~~**provide that the members of the creditors' committee may**	4. Member States shall ~~*ensure*~~***<u>provide that the members of the creditors' committee may</u>*** G

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	possibility to participate and vote either in person or via electronic means.	possibility to participate and vote either in person or via electronic means.	**participate and vote either in person or via electronic means. Member States may provide** that the members of the creditors' committee are given the possibility to ~~participate and vote either in person or via electronic means~~**vote in writing**.	***participate and vote either in person or via electronic means. Member States may provide*** that the members of the creditors' committee are given the possibility to ~~*participate and vote either in person or via electronic means*~~***vote in writing***. Text Origin: Council Mandate
Article 63(5)				
473	5. Member States shall ensure that members of the creditors' committee may be represented by a party supplied with a power of attorney.	5. Member States shall ensure that members of the creditors' committee may be represented by a party supplied with a power of attorney.	5. Member States shall ensure that members of the creditors' committee ~~may~~**can** be represented by a ~~party supplied with a power of attorney~~**duly authorised person**.	5. Member States shall ensure that members of the creditors' committee ~~*may*~~***can*** be represented by a ~~*party supplied with a power of attorney*~~***duly authorised person***. Text Origin: Council Mandate
Article 63(6)				
474	6. The Commission shall establish a standard protocol by way of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 69(2).	6. The Commission shall establish a standard protocol by way of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 69(2).	*deleted*	*Linked to 465* *EP open to a compromise solution, for example changing implementing acts to guidelines*
Article 64				

PRESS

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 475	Article 64 Function, rights, duties and powers of the creditors' committee	Article 64 Function, rights, duties and powers of the creditors' committee	Article 64 Function, rights~~,~~ **and** duties ~~and powers~~ of the creditors~~'~~**"** committee	Article 64 Function, rights~~,~~ ***and*** duties ~~*and powers*~~ of the creditors~~*'*~~***"*** committee Text Origin: Council Mandate
Article 64(1), first subparagraph				
476	1. Member States shall ensure that the creditors' committee's function is to ensure that in the conduct of the insolvency proceedings the creditors' interests are protected and individual creditors are involved.	1. Member States shall ensure that the creditors' committee's function is to ensure that in the conduct of the insolvency proceedings the ~~*creditors'*~~ interests ~~*are protected and individual*~~***of the whole body of*** creditors are ~~*involved*~~***protected***.	*deleted*	*EP counterproposal: Member States shall ensure that the creditors' committee's function is to ensure that in the conduct of the insolvency proceedings the interests of the whole body of creditors are protected and acts independently of the insolvency practitioner.*
Article 64(1), second subparagraph				
G 477	To that end, Member States shall ensure that the creditors' committee has at least the following rights, duties and powers:	To that end, Member States shall ensure that the creditors' committee has at least the following rights, duties and powers:	**1.** ~~To that end,~~ Member States shall ensure that the creditors' committee has ~~at least the following~~ rights~~, duties and powers~~ **that safeguard its involvement in the insolvency proceedings and enable it to examine the activities of the insolvency practitioners or, where the debtor remains in possession, of the debtor, including**:	***1.*** ~~*To that end,*~~ Member States shall ensure that the creditors' committee has ~~*at least the following*~~ rights~~*, duties and powers*~~ ***that safeguard its involvement in the insolvency proceedings and enable it to examine the activities of the insolvency practitioners or, where the debtor remains in possession, of the debtor, including***:

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: Council Mandate
Article 64(1), second subparagraph, point (a)				
478	(a) the right to hear the insolvency practitioner at any time;	(a) the right to hear the insolvency practitioner at any time;	(a) the right to ~~hear~~**be heard by** the insolvency practitioner ~~at any time~~**on matters of interest to the general body of creditors, including major decisions, such as the sale of assets outside the ordinary course of business**;	EP counterproposal: (a) the right to hear the insolvency practitioner on matters of interest to the general body of creditors, including major decisions, such as the sale of assets outside the ordinary course of business;
Article 64(1), second subparagraph, point (b)				
479	(b) the right to appear and to be heard in insolvency proceedings;	(b) the right to appear and to be heard in insolvency proceedings;	(b) the right ~~to appear and~~ to be heard in insolvency proceedings;	(b) the right ~~*to appear and*~~ to be heard in insolvency proceedings; Text Origin: Council Mandate
Article 64(1), second subparagraph, point (c)				
480	(c) the duty to supervise the insolvency practitioner, including by consulting with the insolvency practitioner and informing the insolvency practitioner of the wishes of creditors;	(c) the duty to supervise the insolvency practitioner, including by consulting with the insolvency practitioner and informing the insolvency practitioner of the wishes of creditors;	*deleted*	*Linked to 477* *EP wants to keep the COM/EP text*
Article 64(1), second subparagraph, point (d)				
481	*(d)* the power to request relevant and necessary information from the debtor, the court or the	(d) the power to request relevant and necessary information from the debtor, the court or the	(d) the ~~power~~**right** to request **and receive** relevant and necessary information from ~~the~~	(d) the ~~*power*~~***right*** to request ***and receive*** relevant and necessary information from ~~*the debtor, the*~~

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	insolvency practitioner at any time during insolvency proceedings;	insolvency practitioner at any time during insolvency proceedings;	~~debtor, the court or~~ the insolvency practitioner ~~at any time during insolvency proceedings~~**or, where the debtor remains in possession, from the debtor**;	~~*court or*~~ the insolvency practitioner ~~*at any time during insolvency proceedings*~~***or, where the debtor remains in possession, from the debtor***; linked to line below EP can accept Council text Text Origin: Council Mandate
Article 64(1), second subparagraph, point (e)				
482	(e) the duty to provide information to the creditors represented by the creditors' committee and the right to receive information from those creditors;	(e) the ~~*duty to provide*~~***power to share relevant and necessary*** information to ~~*the creditors*~~ represented ~~*by the*~~ creditors~~*' committee and the right*~~ ***and*** to receive information from ~~*those creditors*~~***them***;	*deleted*	*Council to check: "the right to request and receive information from represented creditors and..." [incorporated in previous line]*
Article 64(1), second subparagraph, point (f)				
483	*(f)* the right to receive notice of and be consulted on matters in which the creditors represented by the creditors' committee have an interest, including the sale of assets outside the ordinary course of business;	(f) the right to receive notice of and be consulted on matters in which the creditors represented by the creditors' committee have an interest, including the sale of assets outside the ordinary course of business;	*deleted*	*EP ok to delete if 478 accepted*
Article 64(1), second subparagraph, point (fa)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
483a		***(fa) the power to appoint a secretary;***		**Question to the Member States:** **Can the Member States accept the following wording, which merges lines 483a and 484: "the possibility to use secretarial assistance or to request external advice on matters in which the creditors represented by the creditors' committee have an interest, provided that all members of the creditors' committee agree."** **According to Article 65(1) (line 487) Member States shall specify who bears the expenses incurred by the creditors' committee or its individual members in exercising the function referred to in Article 64. Member States can specify, that creditors, who has used secretarial assistance or requested external advise, should bear these expenses.**
Article 64(1), second subparagraph, point (g)				
484	(g) the power to request external advice on matters in which the creditors represented by the creditors' committee have an interest.	(g) the power to request external advice on matters in which the creditors represented by the creditors' committee have an interest.	*deleted*	*COM compromise proposal* *EP counterproposal: (g) the right to appoint a secretary and the right to request external advice on matters in*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				which the creditors represented by the creditors' committee have an interest.
Article 64(1a)				
484a			**1a. Member States shall ensure that the creditors' committee in its activities represents the interests of the general body of creditors and acts independently of the insolvency practitioner.**	
Article 64(2)				
485	2. Where Member States entrust the creditors' committee with the power to approve certain decisions or legal acts, they shall clearly specify the matters on which such approval is required.	2. Where Member States entrust the creditors' committee with the power to approve certain decisions or legal acts, they shall clearly specify the matters on which such approval is required.	*deleted*	*EP/Council to check: Member States may entrust the creditors' committee with the power to approve certain decisions or legal acts. In such case, they shall clearly specify the matters on which such approval is required.* *EP ok with wording* **<u>Question to the Member States:</u>** **The EP has accepted line 491c.** **Can the Member States accept the following wording, where it is explicitly mentioned that the creditors' committee can approve certain decisions:**

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				"Member States may entrust the creditors' committee with the power to approve certain decisions or legal acts. In such case, they shall clearly specify the matters on which such approval is required."
Article 64(2a)				
485a		***2a. Member States shall ensure that creditors, members of the creditors' committee and any professionals employed by the creditors' committee maintain the confidentiality of all information obtained in connection with the committee's activities.***		**Question to the Member States:** **Can the Member States accept the following compromise wording:** Council/EP to check: "Member States shall ensure that creditors, members of the creditors' committee and any professionals assisting the creditors' committee maintain the confidentiality of confidential information obtained in connection with the committee's activities." EP ok with wording
Article 65				
486	Article 65 Expenses and remuneration	Article 65 Expenses and remuneration	Article 65 Expenses and remuneration	Article 65 Expenses and remuneration
Article 65(1)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 487	1. Member States shall specify who bears the expenses incurred by the creditors' committee in exercising its function referred to in Article 64.	1. Member States shall specify who bears the expenses incurred by the creditors' committee in exercising its function referred to in Article 64.	1. Member States shall specify who bears the expenses incurred by the creditors' committee **or its individual members** in exercising ~~its~~**the** function referred to in Article 64.	1. Member States shall specify who bears the expenses incurred by the creditors' committee ***or its individual members*** in exercising ~~*its*~~***the*** function referred to in Article 64. LL to check "individual"/"individually" Text Origin: Council Mandate
Article 65(2)				
G 488	2. Where the expenses referred to in paragraph 1 are borne by the insolvency estate, Member States shall ensure that the creditors' committee keeps record of such expenses and the court has the authority to limit unjustified and disproportionate expenses.	2. Where the expenses referred to in paragraph 1 are borne by the insolvency estate, Member States shall ensure that the creditors' committee keeps record of such expenses and the court has the authority to limit unjustified and disproportionate expenses.	2. Where the expenses referred to in paragraph 1 are borne by the insolvency estate, Member States shall ensure that the creditors' committee ~~keeps~~**or its individual members keep** record of such expenses and the court**, insolvency practitioners or competent authority** has the authority to limit unjustified ~~and~~**or** disproportionate expenses.	2. Where the expenses referred to in paragraph 1 are borne by the insolvency estate, Member States shall ensure that the creditors' committee ~~*keeps*~~***or its individual members keep*** record of such expenses and the court***, insolvency practitioners or competent authority*** has the authority to limit unjustified ~~*and*~~***or*** disproportionate expenses. Text Origin: Council Mandate
Article 65(3)				
G 489	3. Where Member States allow members of the creditors' committee to be remunerated and	3. Where Member States allow members of the creditors' committee to be remunerated and	3. Where Member States allow members of the creditors' committee to be remunerated and	3. Where Member States allow members of the creditors' committee to be remunerated and

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	such remuneration is borne by the insolvency estate, they shall ensure that the remuneration is proportionate to the function performed by the members and that the creditors' committee keeps record of it.	such remuneration is borne by the insolvency estate, they shall ensure that the remuneration is proportionate to the function performed by the members and that the creditors' committee keeps record of it.	such remuneration is borne by the insolvency estate, they shall ensure that the remuneration is proportionate to the function performed ~~by the members and that the creditors' committee keeps record of it~~.	such remuneration is borne by the insolvency estate, they shall ensure that the remuneration is proportionate to the function performed ~~*by the members and that the creditors' committee keeps record of it*~~. Text Origin: Council Mandate
Article 66				
490	Article 66 Liability	Article 66 Liability	Article 66 Liability	Article 66 Liability
Article 66, first paragraph -a				
490a			**1. Member States shall ensure that at least one of the following rules apply:**	***1. Member States shall ensure that at least one of the following rules apply:*** Text Origin: Council Mandate
Article 66, first paragraph				
491	Members of a creditors' committee are exempt from individual liability for their actions in their capacity as members of the committee unless they have committed grossly negligent or fraudulent conduct, wilful misconduct, or have breached a	Members of a creditors' committee are exempt from individual liability for their actions in their capacity as members of the committee unless they have committed ***an intentional or*** grossly negligent ~~*or fraudulent conduct, wilful misconduct, or*~~	**(a) members of ~~a~~the creditors' committee are exempt from ~~individual~~personal liability for their actions in their capacity as members of the committee unless they have ~~committed~~been found to have violated their duties with respect to the**	***(a)*** members of ~~*a*~~***the*** creditors' committee are exempt from ~~*individual*~~***personal*** liability for their actions in their capacity as members of the committee unless they have ~~*committed*~~***been found to have violated their duties with respect to the creditors'***

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	fiduciary duty to the creditors they represent.	~~*have breached a fiduciary duty*~~***violation of duties with respect*** to the creditors ~~*they represent*~~***' interests***.	**creditors' interests intentionally or in a** grossly negligent ~~or fraudulent conduct, wilful misconduct, or have breached a fiduciary duty to the creditors they represent.~~**manner;**	***interests intentionally or in a*** grossly negligent ~~*or fraudulent conduct, wilful misconduct, or have breached a fiduciary duty to the creditors they represent.*~~***manner;*** Text Origin: Council Mandate
Article 66, first paragraph a				
G	491a		**(b) the personal liability of the members of the creditors' committee for their actions in their capacity as members of the committee is covered by insurance which is borne by the insolvency estate in accordance with Article 65(2).**	***(b) the personal liability of the members of the creditors' committee for their actions in their capacity as members of the committee is covered by insurance which is borne by the insolvency estate in accordance with Article 65(2).*** Text Origin: Council Mandate
Article 66, first paragraph b				
G	491b	***Expenses for liability insurance covering the liability of members of the creditors' committee shall be borne by the insolvency estate in accordance with Article 65(2).***		delete
Article 66, second paragraph				

Public

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 491c			**2. Where Member States entrust the creditors' committee with the power to approve certain decisions or transactions, Member States may provide that the members of the creditors' committee are held liable in the same manner as an insolvency practitioner.**	***2. Where Member States entrust the creditors' committee with the power to approve certain decisions or transactions, Member States may provide that the members of the creditors' committee are held liable in the same manner as an insolvency practitioner.*** Text Origin: Council Mandate
Article 67				
492	Article 67 Appeal	Article 67 Appeal	*deleted*	*EP wants to keep EP text in lines 492-494* **Question to the Member States:** **In light of the lines that the EP has accepted from the Council text (450, 452, 465/466 (dependent on 471) 473, 477, 479, 481, 43, 490a, 491a, 491c), can the Member States accept lines 492-494 from the EP text?**
Article 67(1)				
493	*1.* Where Member States entrust the creditors' committee with the power to approve certain	1. Where Member States entrust the creditors' committee with the power to approve certain	*deleted*	

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	decisions or transactions, they shall also provide for a right to appeal against such an approval.	decisions or transactions, they shall also provide for a right to appeal against such an approval.		
Article 67(2)				
494	*2.* Member States shall ensure that the appeal procedure is efficient and expeditious.	2. Member States shall ensure that the appeal procedure is efficient and expeditious.	*deleted*	
Title VIII				
495	Title VIII MEASURES ENHANCING TRANSPARENCY OF NATIONAL INSOLVENCY LAWS	Title VIII MEASURES ENHANCING TRANSPARENCY OF NATIONAL INSOLVENCY LAWS	Title VIII MEASURES ENHANCING TRANSPARENCY OF NATIONAL INSOLVENCY LAWS	Title VIII MEASURES ENHANCING TRANSPARENCY OF NATIONAL INSOLVENCY LAWS
Article 68				
496	Article 68 Key information factsheet	Article 68 Key information factsheet	Article 68 Key information factsheet	Article 68 Key information factsheet
Article 68(1)				
497	1. Member States shall provide, within the framework of the European e-Justice Portal, a key information factsheet on certain elements of national law on insolvency proceedings.	1. Member States shall provide, within the framework of the European e-Justice Portal, a key information factsheet on ~~certain~~***essential*** elements of national law on insolvency proceedings.	1. **Without prejudice to paragraph 10,** Member States shall provide~~, within the framework of~~ **the Commission, through** the European e-Justice Portal, a key information factsheet on certain elements of national law on insolvency proceedings **(the "key information factsheet")**.	1. ***Without prejudice to paragraph 10,*** Member States shall provide~~, within the framework of~~ ***the Commission, through*** the European e-Justice Portal, a key information factsheet on ~~certain~~***essential*** elements of national law on insolvency proceedings ***(the "key information factsheet")***.
Article 68(2)				

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	498	2. The content of the key information factsheet referred to in paragraph (1) shall be accurate, clear and not misleading and set out the facts in a balanced and fair manner. It shall be consistent with other information on insolvency or bankruptcy law provided within the framework of the European e-Justice Portal in accordance with Article 86 of Regulation (EU) 2015/848.	2. The content of the key information factsheet referred to in paragraph (1) shall be accurate, clear and not misleading and set out the facts in a balanced and fair manner. It shall be consistent with other information on insolvency or bankruptcy law provided within the framework of the European e-Justice Portal in accordance with Article 86 of Regulation (EU) 2015/848.	2. The content of the key information factsheet ~~referred to in paragraph (1)~~ shall be **concise,** accurate, clear and ~~not misleading and~~**non-technical and shall** set out the ~~facts in a balanced and fair manner. It shall be consistent with other~~ information ~~on insolvency or bankruptcy law provided within the framework of the European e-Justice Portal in accordance with Article 86 of Regulation (EU) 2015/848.~~**in a factual manner.**	2. The content of the key information factsheet ~~*referred to in paragraph (1)*~~ shall be ***concise,*** accurate, clear and ~~*not misleading and*~~***non-technical and shall*** set out the ~~*facts in a balanced and fair manner. It shall be consistent with other*~~ information ~~*on insolvency or bankruptcy law provided within the framework of the European e-Justice Portal in accordance with Article 86 of Regulation (EU) 2015/848.*~~***in a factual manner.*** Text Origin: Council Mandate	G
Article 68(3)						
G	499	3. The key information factsheet shall:	3. The key information factsheet shall:	3. The key information factsheet shall~~:~~	3. The key information factsheet shall~~:~~ Text Origin: Council Mandate	G
Article 68(3), point (a)						
Y	500	(a) be drawn up and submitted to the Commission in an official language of the Union by [6 months after the deadline for transposition of this Directive];	(a) be drawn up and submitted to the Commission in an official language of the Union by [6 months after the deadline for transposition of this Directive];	~~(a)~~ be drawn up and submitted to the Commission in an official language of the **institutions of the** Union by ~~[6 months after the deadline for transposition of this Directive~~**…**	~~*(a)*~~ be drawn up and submitted to the Commission in an official language of the ***institutions of the*** Union by ~~*[6 months after the deadline for transposition of this Directive*~~***… [x***	Y

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			[42 *months* from the entry into force *of this Directive*];	***months from the entry into force of this Directive***]; Council and EP agree in principle that it is 6 months after the transposition. Text Origin: Council Mandate
Article 68(3), point (b)				
G 501	(b) have a maximum length of five sides of A4-sized paper when printed, using characters of readable size;	(b) have a maximum length of five sides of A4-sized paper when printed, using characters of readable size;	*deleted*	*deleted* G
Article 68(3), point (c)				
G *502*	*(c)* be written in a clear, non-technical and comprehensible language.	(c) be written in a clear, non-technical and comprehensible language.	*deleted*	*deleted* G
Article 68(4)				
G *503*	*4.* The key information factsheet shall contain the following sections in the following order:	4. The key information factsheet shall contain the following sections in the following order:	4. The key information factsheet shall ~~contain~~**include** the following sections in the following order:	4. The key information factsheet shall ~~*contain*~~***include*** the following sections in the following order: Text Origin: Council Mandate G
Article 68(4), point (a)				

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
G	504	(a) the conditions for the opening of insolvency proceedings;	(a) the conditions for the opening of insolvency proceedings;	(a) the conditions for the opening of insolvency proceedings;	(a) the conditions for the opening of insolvency proceedings;	G
	Article 68(4), point (b)					
G	505	(b) the rules governing the lodging, verification and admission of claims;	(b) the rules governing the lodging, verification and admission of claims;	(b) the rules governing the lodging, verification and admission of claims;	(b) the rules governing the lodging, verification and admission of claims;	G
	Article 68(4), point (c)					
G	506	(c) the rules governing the ranking of creditors' claims and the distribution of proceeds from the realisation of assets ensuing from the insolvency proceedings;	(c) the rules governing the ranking of creditors' claims and the distribution of proceeds from the realisation of assets ensuing from the insolvency proceedings;	(c) the rules governing the ranking of creditors' claims and the distribution of proceeds from the realisation of assets ensuing from the insolvency proceedings;	(c) the rules governing the ranking of creditors' claims and the distribution of proceeds from the realisation of assets ensuing from the insolvency proceedings;	G
	Article 68(4), point (d)					
G	507	(d) the average reported length of insolvency proceedings, as referred to in Article 29(1), point (b) of Directive (EU) 2019/1023[1]. _____ 1. DIRECTIVE (EU) 2019/1023 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the	(d) the average reported length of insolvency proceedings, as referred to in Article 29(1), point (b) of Directive (EU) 2019/1023[1]. _____ 1. DIRECTIVE (EU) 2019/1023 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the	(d) the average reported length of insolvency proceedings, as referred to in Article 29(1), point (b) of Directive (EU) 2019/1023[1]. _____ 1. DIRECTIVE (EU) 2019/1023 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the	(d) the average reported length of insolvency proceedings, as referred to in Article 29(1), point (b) of Directive (EU) 2019/1023[1]. _____ 1. DIRECTIVE (EU) 2019/1023 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the	G

PUBLIC

		CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132	efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132	efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132	efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132
Article 68(5)					
G	508	5. The section referred to in paragraph (4), point (a)shall contain:	5. The section referred to in paragraph (4), point (a)shall contain:	5. The section referred to in paragraph ~~(4)~~**4**, point (a)**,** shall ~~contain~~**include**:	5. The section referred to in paragraph ~~(4)~~***4***, point (a)***,*** shall ~~contain~~***include***: Text Origin: Council Mandate
Article 68(5), point (a)					
G	509	(a) the list of persons that can request the opening of insolvency proceedings;	(a) the list of persons that can request the opening of insolvency proceedings;	(a) the list of persons that can request the opening of insolvency proceedings;	(a) the list of persons that can request the opening of insolvency proceedings;
Article 68(5), point (b)					
G	510	(b) the list of conditions that trigger the opening of insolvency proceedings;	(b) the list of conditions that trigger the opening of insolvency proceedings;	(b) the list of conditions that trigger the opening of insolvency proceedings;	(b) the list of conditions that trigger the opening of insolvency proceedings;
Article 68(5), point (c)					
G	511	(c) where and how the request for the opening of insolvency proceedings can be submitted;	(c) where and how the request for the opening of insolvency proceedings can be submitted;	(c) **how and** where ~~and how the~~**to submit a** request for the opening of insolvency proceedings ~~can be submitted~~;	(c) ***how and*** where ~~*and how the*~~***to submit a*** request for the opening of insolvency proceedings ~~*can be submitted*~~; Text Origin: Council Mandate

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 68(5), point (d)				
512	(d) how and when the debtor is notified of the opening of insolvency proceedings.	(d) how and when the debtor is notified of the opening of insolvency proceedings.	(d) how and when the debtor is notified of the ~~opening of~~**decision whether to open** insolvency proceedings.	(d) how and when the debtor is notified of the ~~*opening of*~~***decision [on whether to open]*** insolvency proceedings. for LL to check Text Origin: Council Mandate
Article 68(6)				
513	6. The section referred to in paragraph (4), point (b) shall contain:	6. The section referred to in paragraph (4), point (b) shall contain:	6. The section referred to in paragraph ~~(4)~~**4**, point (b)**,** shall ~~contain~~**include**:	6. The section referred to in paragraph ~~*(4)*~~***4***, point (b)**,** shall ~~*contain*~~***include***: Text Origin: Council Mandate
Article 68(6), point (a)				
514	(a) the list of persons that can lodge a claim;	(a) the list of persons that can lodge a claim;	(a) the list of persons that can lodge a claim;	(a) the list of persons that can lodge a claim;
Article 68(6), point (b)				
515	(b) the list of conditions to lodge a claim;	(b) the list of conditions to lodge a claim;	(b) the list of conditions ~~to lodge~~**for lodging** a claim;	(b) the list of conditions ~~*to lodge*~~***for lodging*** a claim; Text Origin: Council Mandate
Article 68(6), point (c)				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
516	(c) the time limit to lodge a claim;	(c) the time limit to lodge a claim;	(c) the time limit ~~to lodge~~**for lodging** a claim;	(c) the time limit ~~*to lodge*~~***for lodging*** a claim; Text Origin: Council Mandate
Article 68(6), point (d)				
517	(d) where to find the form to lodge a claim, when applicable;	(d) where to find the form to lodge a claim, when applicable;	(d) ~~where to find~~**how to obtain** the form ~~to lodge~~**for lodging** a claim, ~~when~~**if** applicable;	(d) ~~*where to find*~~***how to obtain*** the form ~~*to lodge*~~***for lodging*** a claim, ~~*when*~~***if*** applicable; Text Origin: Council Mandate
Article 68(6), point (e)				
518	(e) how and where to lodge a claim;	(e) how and where to lodge a claim;	(e) how and where to lodge a claim;	(e) how and where to lodge a claim;
Article 68(6), point (f)				
519	(f) how the claim is verified and validated.	(f) how the claim is verified and validated.	(f) how the claim is verified and validated.	(f) how the claim is verified and validated.
Article 68(7)				
520	7. The section referred to in paragraph (4), point (c) shall contain:	7. The section referred to in paragraph (4), point (c) shall contain:	*deleted*	*deleted*
Article 68(7), point (a)				
521	*(a)* a brief description of how rights and claims of creditors are ranked;	(a) a brief description of how rights and claims of creditors are ranked;	*deleted*	*deleted*

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 68(7), point (b)				
522	*(b)* a brief description of how proceeds are distributed.	(b) a brief description of how proceeds are distributed.	*deleted*	*deleted*
Article 68(8), first subparagraph				
523	*8.* Member States shall update the information referred to in paragraph 4 within a month after the entry into force of the relevant amendments to national law. The key information factsheet shall contain the following statement: 'This key information factsheet is accurate as at [the date of submission of the information to the Commission or the date of the update]'.	8. Member States shall update the information referred to in paragraph 4 within a month after the entry into force of the relevant amendments to national law. The key information factsheet shall contain the following statement: 'This key information factsheet is accurate as at [the date of submission of the information to the Commission or the date of the update]'.	8. Member States shall update the information referred to in paragraph 4 within ~~a~~**1** month ~~after~~**of** the entry into force of ~~the~~**any** relevant amendments to national law. The key information factsheet shall contain the following statement: 'This key information factsheet is accurate as at **…** [the date of submission of the information to the Commission or the date of the update]'.	8. Member States shall update the information referred to in paragraph 4 within ~~a~~***1*** month ~~after~~***of*** the entry into force of ~~the~~***any*** relevant amendments to national law. The key information factsheet shall contain the following statement: 'This key information factsheet is accurate as at ***…*** [the date of submission of the information to the Commission or the date of the update]'. Text Origin: Council Mandate
Article 68(8), second subparagraph				
524	The Commission shall arrange for that key information factsheet to be translated into English, French and German or, if the key information factsheet is drawn up in one of those languages, into the other two of them, and make it accessible to the public on the	The Commission shall arrange for that key information factsheet to be translated into English, French and German or, if the key information factsheet is drawn up in one of those languages, into the other two of them, and make it accessible to the public on the	**8a.** The Commission shall ~~arrange for that key information factsheet to be translated into English, French and German or, if~~**ensure that** the key information factsheet is ~~drawn up in one of those languages, into the other two of them, and make it~~	***8a.*** The Commission shall ~~*arrange for that key information factsheet to be translated into English, French and German or, if*~~***ensure that*** the key information factsheet is ~~*drawn up in one of those languages, into the other two of them, and make it*~~

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	European e-Justice Portal under the insolvency/bankruptcy section for each Member State.	European e-Justice Portal under the insolvency/bankruptcy section for each Member State.	~~accessible~~**available** to the public **in English, French and German and the original language, if different,** on the European e-Justice Portal under the insolvency/bankruptcy section for each Member State.	~~accessible~~***available*** to the public ***in English, French and German and the original language, if different,*** on the European e-Justice Portal under the insolvency/bankruptcy section for each Member State. Text Origin: Council Mandate
Article 68(9)				
G 525	9. The Commission shall be empowered to modify the format of the key information factsheet or to extend or reduce the scope of the technical information provided therein by way of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 69(2)	9. The Commission shall be empowered to modify the format of the key information factsheet or to extend or reduce the scope of the technical information provided therein by way of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 69(2)	9. The Commission shall be empowered to modify the format of the key information factsheet ~~or to extend or reduce the scope of the technical information provided therein~~ by way of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 69(2)**.**	9. The Commission shall be empowered to modify the format of the key information factsheet ~~*or to extend or reduce the scope of the technical information provided therein*~~ by way of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 69(2)***.*** Text Origin: Council Mandate
Article 68(9a)				
G 525a			**10. Member States where Regulation (EU) 2015/848 is applicable shall provide the key information factsheet referred to in paragraph 1 of this Article**	***10. Member States where Regulation (EU) 2015/848 is applicable shall provide the key information factsheet referred to in paragraph 1 of this Article***

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			through the European Judicial Network in civil and commercial matters established by Council Decision 2001/470/EC[1] in a manner consistent with Article 86 of that Regulation. _____ **1. Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters (OJ L 174, 27.6.2001, p. 25).**	***through the European Judicial Network in civil and commercial matters established by Council Decision 2001/470/EC[1] in a manner consistent with Article 86 of that Regulation.*** _____ ***1. Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters (OJ L 174, 27.6.2001, p. 25).*** Text Origin: Council Mandate
Title IX				
526	Title IX FINAL PROVISIONS	Title IX FINAL PROVISIONS	Title IX FINAL PROVISIONS	Title IX FINAL PROVISIONS
Article 68a				
526a			**Article 68a** **Emergency measures**	political
Article 68a(1)				
526b			**1. Member States may derogate from applying national provisions transposing Title II, V and VII in the event of extraordinary situations which seriously disrupt economic**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			activities at the level of the Member States or their regions, where, and to the extent that, the application of the national provisions transposing those Titles would entail a risk of widespread insolvencies, including for companies that are viable under ordinary circumstances.	
Article 68a(2)				
526c			**2. The derogation referred to in paragraph 1 and its duration shall be proportionate and limited to what is essential for containing, mitigating, resolving or preventing the serious disruption referred to in that paragraph.**	
Article 68a(3), first subparagraph				
526d			**3. The derogation referred to in paragraph 1 shall be notified to the Commission within a month from its entry into force.**	
Article 68a(3), second subparagraph				
526e			**When notifying the Commission in accordance with the first subparagraph, the Member States shall list the provisions of**	

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	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			this Directive from which the measures derogate, the nature and extent of the exceptional circumstances on which the derogation is based, the duration of the derogation, and the reasons for which the derogation is considered essential for containing, resolving or preventing serious disruption to economic activities as referred to in paragraph 1. The Commission shall inform the other Member States thereof without undue delay.	
Article 68a(4), first subparagraph				
526f			**4. The derogation referred to in paragraph 1 may have a maximum duration of one year.**	
Article 68a(4), second subparagraph				
526g			**Where and to the extent that the extraordinary situation which seriously disrupts economic activities persists, the derogation may be extended by periods of up to 6 months provided that the Member State notifies the Commission to that effect no later than 3 months before the expiration of the previous derogation period. That**	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			extension shall take effect unless the Commission objects, at the latest one month before the expiration of that previous derogation period, on the basis that the extension does not comply with the requirements referred to in paragraph 1 and 2.	
Article 68b				
526h			**Article 68b** **Collective workers' rights**	
Article 68b(1)				
526i			**Member States shall ensure that collective workers' rights under Union and national labour law are not affected by Titles IV and VII of this Directive.**	linked to the COM proposal on 224b
Article 69				
G 527	Article 69 Committee	Article 69 Committee	Article 69 Committee	Article 69 Committee G
Article 69(1)				
G 528	1. The Commission shall be assisted by the Committee on Restructuring and Insolvency (the 'Committee') as referred to in Article 30 of Directive (EU) 2019/1023 of the European	1. The Commission shall be assisted by the Committee on Restructuring and Insolvency (the 'Committee') as referred to in Article 30 of Directive (EU) 2019/1023 of the European	1. The Commission shall be assisted by the Committee on Restructuring and Insolvency (the 'Committee') as referred to in Article 30 of Directive (EU) 2019/1023 of the European	1. The Commission shall be assisted by the Committee on Restructuring and Insolvency (the 'Committee') as referred to in Article 30 of Directive (EU) 2019/1023 of the European G

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	Parliament and of the Council. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	Parliament and of the Council. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	Parliament and of the Council. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	Parliament and of the Council. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
Article 69(2)				
529	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply
Article 69a				
529a		***Article 69a*** ***Supporting measures***		
Article 69a(1)				
529b		***To address the difficulties of SMEs and microenterprises in particular, and their need for additional supporting measures in the event of insolvency and financial distress, the Commission shall support the exchange of best practices between Member States and provide guidance on that basis and on the basis of exchanges with SME representatives.***		
Article 70				
530	Article 70 Review		Article 70 Review	Article 70 Review
Article 70, first paragraph				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
531	By [5 years after the deadline for transposition of this Directive], the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application and impact of this Directive.	By [~~5~~**3** years after the deadline for transposition of this Directive] ***and every 5 years thereafter***, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application ~~*and*~~**,** impact ***and its effectiveness in reaching the objectives*** of this Directive. ***The report may be accompanied, if appropriate, by a legislative proposal.***	By [~~5 years after the deadline for transposition of this Directive~~***5 years after the deadline for transposition of this Directive***], the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application and impact of this Directive.	EP proposal: No later than (XXXXXX) and every five years thereafter, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application and impact of this Directive. On the basis of that assessment, the Commission shall submit, if appropriate, a legislative proposal.
Article 71				
532	Article 71 Transposition	Article 71 Transposition	Article 71 Transposition	Article 71 Transposition
Article 71(1), first subparagraph				
533	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [2 years from entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ~~*[2 years*~~***... [12 months*** from entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by **…** [~~2 years from entry into force] at the latest~~**3 *years from the entry into force* of this Directive]**. They shall forthwith communicate to the Commission the text of those provisions.	political
Article 71(1), first subparagraph a				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 533a			**Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 14, 15 and 16 of this Directive, to the extent they relate to the future EU bank account registers interconnection system (BARIS) referred to in Article 16(6) of Directive (EU) 2024/1640 of the European Parliament and of the Council by the date mentioned in the first subparagraph or by 10 July 2029, whichever is later in time.**	***Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 14, 15 and 16 of this Directive, to the extent they relate to the future EU bank account registers interconnection system (BARIS) referred to in Article 16(6) of Directive (EU) 2024/1640 of the European Parliament and of the Council by the date mentioned in the first subparagraph or by 10 July 2029, whichever is later in time.*** Text Origin: Council Mandate G
Article 71(1), second subparagraph				
G 534	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made. G
Article 71(1), second subparagraph a				
534a			**1a. Member States that encounter particular difficulties**	political

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			in implementing this Directive may bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by … [4 years from the entry into force of this Directive].	
Article 71(1), second subparagraph b				
534b			**When a Member State makes use of the option set out in the first subparagraph, it shall notify the Commission thereof by … [30 months from the entry into force of this Directive].**	political
Article 71(1), second subparagraph c				
534c			**1b. Member States shall ensure that Title II applies only to legal acts perfected after the date of the entry into force of the laws, regulations and administrative provisions necessary to comply with this Directive referred to in the first subparagraph of paragraph 1.**	political
Article 71(2)				
G 535	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive. G

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement	
Article 72					
536	Article 72 Entry into force	Article 72 Entry into force	Article 72 Entry into force	Article 72 Entry into force	
Article 72, first paragraph					
537	This Directive shall enter into force on the [...] day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force on the [...] day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force on the [...] day following that of its publication in the Official Journal of the European Union.	This Directive shall enter into force on the [...] day following that of its publication in the Official Journal of the European Union.	
Article 73					
538	Article 73 Addressees	Article 73 Addressees	Article 73 Addressees	Article 73 Addressees	
Article 73, first paragraph					
539	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	This Directive is addressed to the Member States.	
Formula					
540	Done at Brussels,	Done at Brussels,	Done at Brussels,	Done at Brussels,	
Formula					
541	For the European Parliament	For the European Parliament	For the European Parliament	For the European Parliament	
Formula					
542	The President (...)	The President (...)	The President (...)	The President (...)	
Formula					
543	For the Council	For the Council	For the Council	For the Council	
Formula					
544	The President (...)	The President (...)	The President (...)	The President (...)	
ANNEX ...					

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
545	ANNEX […]	ANNEX […]	ANNEX […]	ANNEX […]
ANNEX …, first paragraph				
546	National asset registers referred to in Article 18	National ~~*asset*~~ registers ***and databases*** referred to in Article 18	National ~~asset~~ registers **and databases** referred to in Article 18	National ~~*asset*~~ registers ***and databases*** referred to in Article 18 Text Origin: Council Mandate
ANNEX …, point 1.				
547	1. Cadastral registers;	1. Cadastral registers;	1. Cadastral registers;	1. Cadastral registers;
ANNEX …, point 2.				
548	2. Land registers;	2. Land registers;	2. Land registers;	2. Land registers;
ANNEX …, point 3.				
549	3. Movable property registers including registers of vehicles, ships and aircrafts and registers of weapons;	3. Movable property registers including registers of vehicles, ships and aircrafts***, where property rights are registered in such*** ~~*and*~~ registers ~~*of weapons*~~;	3. Movable property registers including registers of vehicles, ships and aircrafts**, where property rights are registered in such** ~~and~~ registers ~~of weapons~~;	3. Movable property registers including registers of vehicles, ships and aircrafts***, where property rights are registered in such*** ~~*and*~~ registers ~~*of weapons*~~; Text Origin: Council Mandate
ANNEX …, point 4.				
550	4. Register of donations;	4. Register of donations;	4. Register of donations;	4. Register of donations;
ANNEX …, point 5.				
551	5. Mortgage registers;	5. Mortgage registers;	5. Mortgage registers;	5. Mortgage registers;
ANNEX …, point 6.				

PUBLIC

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
G 552	6. Other security registers, including securities depository registers and book-entry registers;	6. ~~*Other security*~~ Registers ***or databases containing information on the ownership of securities, such as central***~~,~~ ~~*including*~~ securities ~~*depository registers and book-entry registers*~~***depositories, as defined in Article 2 of Regulation (EU) No 909/2014***;	6. ~~Other security~~ Registers **or databases containing information on the ownership of securities, such as central**~~,~~ ~~including~~ securities ~~depository registers and book-entry registers~~**depositories, as defined in Article 2 of Regulation (EU) No 909/2014**;	6. ~~*Other security*~~ Registers ***or databases containing information on the ownership of securities, such as central***~~,~~ ~~*including*~~ securities ~~*depository registers and book-entry registers*~~***depositories, as defined in Article 2 of Regulation (EU) No 909/2014***; Text Origin: Council Mandate
ANNEX …, point 7.				
G 553	7. Registers of pledges including lease agreements and sale-purchase agreements with retention of title;	7. Registers of pledges including lease agreements and sale-purchase agreements with retention of title;	7. Registers of pledges including lease agreements and sale-purchase agreements with retention of title;	7. Registers of pledges including lease agreements and sale-purchase agreements with retention of title;
ANNEX …, point 8.				
G 554	8. Registers containing property seizure acts;	8. Registers containing property seizure acts;	8. Registers containing property seizure acts;	8. Registers containing property seizure acts;
ANNEX …, point 9.				
G 555	9. Probate registers;	*deleted*	*deleted*	*deleted*
ANNEX …, point 10.				
G *556*	*10.* Registers of intellectual property rights, including patent and trademark registers;	10. Registers of intellectual property rights, including patent and trademark registers;	10. Registers of intellectual property rights, including patent and trademark registers~~;~~**.**	10. Registers of intellectual property rights, including patent and trademark registers~~;~~**.**

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Text Origin: Council Mandate
ANNEX …, point 11.				
G 557	11. Registers of internet domains;	*deleted*	*deleted*	*deleted* G
ANNEX …, point 12.				
G *558*	*12.* Register of General Terms and Conditions.	*deleted*	*deleted*	*deleted* G

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