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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
- Open lines in the 4-column table

Delegations will find in Annex the 4-column table containing the remaining open lines in the operative part of the Insolvency Directive.

**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]

11-11-2025 at 17h20

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 1(1)				
80	1. This Directive lays down common rules on:	1. <u><i>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,</i></u> this Directive lays down common rules on:	1. This Directive lays down common rules on:	EP to check moving addition to the recitals EP to make proposal
Article 1(1), point (c)				
83	(c) pre-pack proceedings;	(c) pre-pack proceedings;	(c) the pre-pack mechanism pre-pack proceedings;	
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

	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 <u>or the sale of the business, or a part thereof, as a going concern</u> ;	(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 ;	EP to check
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 (o)				

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
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 444, 448;
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 view to the liquidation of the assets of the debtor as a result of the established insolvency of the debtor;	(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 view to the liquidation of the assets of the debtor as a result of the established insolvency of the debtor;	(p) ‘pre-pack proceedings mechanism’ means expedited proceedings, comprising a preparation phase and a liquidation phase, 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 view to the liquidation of the assets of the debtor as a result of the established insolvency of proceedings for the debtor;	EP to check definition with the exception of proceedings/mechanism issue
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)				

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
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 3, first paragraph -b				
127m				<u>1a.</u> <i>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.]</i>
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.	<u>1.</u> <i>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 III, IV] and V.</i> EP will check Title IV Linked to 127m Text Origin: Council Mandate
Article 3a, third paragraph				

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
130i		<u>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.</u>		
Article 3a, fourth paragraph				
130j		<u>4. Member States may adopt or maintain laws which establish simplified winding-up proceedings for microenterprises.</u>		
Article 3b				
130k		<u>Article 3b Protection of workers</u>		
Article 3b, first paragraph				
130l		<u>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.</u>		

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		<p><u><i>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.</i></u></p> <p><u><i>Ia. Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws 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).</i></u></p> <p><u><i>Ib. 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).</i></u></p> <p><u><i>Ic. 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).</i></u></p> <p><u><i>Id. Directive 2009/38/EC of the European Parliament and 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,</i></u></p>		

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		<p><u>16.5.2009, p. 28, ELI:</u> http://data.europa.eu/eli/dir/2009/38/oj. <u>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:</u> http://data.europa.eu/eli/dir/2016/2341/oj <u>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:</u> http://data.europa.eu/eli/dir/2008/94/oj.</p>		
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 <u>are void, voidable or unenforceable</u> only if:	2. If a due claim of a creditor was satisfied or secured in the owed manner <u>as owed</u> , Member States shall ensure that thea <u>detrimental</u> legal act can be declared void only if <u>is void, voidable or unenforceable at least</u> where:	2. If a due claim of a creditor was satisfied or secured in the owed manner <u>as owed</u> , Member States shall ensure that thea <u>detrimental</u> legal act can be declared void only if <u>is void, voidable or unenforceable at least</u> <u>where:</u> <p>EP to check; for the moment, political</p> <p>Text Origin: Council Mandate</p>
Article 6(3), first subparagraph, point (cb)				
150b		<u>(ca) where relevant, in accordance with national law,</u>		political

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		<u><i>legal acts the purpose of which is to satisfy or collateralise claims by social security authorities.</i></u>		
Article 7(1)				
153	<p>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.</p>	<p>1. Member States shall ensure that legal acts of the debtor against no or a manifestly inadequate consideration can be declared void <u>are void, voidable or unenforceable</u> 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, <u>in the absence of a formal</u> after the submission of such request, <u>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.</u> <u>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</u></p>	<p>1. Member States shall ensure that legal acts of the debtor against no consideration or against for a manifestly inadequate consideration can be declared void <u>are void, voidable or unenforceable</u> where they were perfected within a time period of one year prior to the submission of the request for <u>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.</u></p>	<p>1. Member States shall ensure that legal acts of the debtor against no <u>consideration or against</u> or a manifestly inadequate consideration can be declared void <u>are void, voidable or unenforceable</u> where they were perfected within a time period of one year prior to the submission of the request for <u>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.</u></p> <p>153 related recital - EP ok to recital without first two sentences</p> <p>Council to check</p> <p>Last sentence in EP position related to 166</p>

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		<u>party was not aware of the circumstances on which the avoidance action is based.</u>		
Article 8(1), first subparagraph, point (a)				
158	(a) those acts were perfected either within a time period of four years prior to the submission of the request for the opening of insolvency proceedings or after the submission of such request;	(a) those acts were perfected either within a time period of four <u>three</u> years prior to the submission of the request for the opening of insolvency proceedings or, <u>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;</u>	(a) those acts were perfected either within a time period of four <u>two</u> 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;	EP considers political
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 <u>void, voidable or unenforceable</u> 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.	<i>deleted</i>	<u>political</u>

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
<i>Article 9(3)</i>				
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 <u>void, voidable or unenforceable</u> legal act that can be declared void against the other party is three years from the date of the opening of insolvency proceedings.	<i>deleted</i>	<i>EP considers political</i>
<i>Article 10(2), first subparagraph</i>				
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 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.	2. Member States shall ensure that any counter-performance of the party which benefitted from the <u>void, voidable or unenforceable</u> legal act that has been declared void performed 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.	<i>deleted</i>	<i>Council to check</i>
<i>Article 13(2)</i>				
187	2. Each Member State shall notify the Commission of its	2. Each Member State shall notify the Commission of its	2. Each Member State shall notify the Commission of its	2. Each Member State shall notify the Commission of its

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	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.	designated courts <i>or</i> <u>administrative authorities by ... by</u> [63 months from transposition date], and shall <u>immediately</u> notify the Commission of any amendment thereto. The Commission shall publish the notifications in the Official Journal of the European Union <u>and on the European e-Justice Portal</u> .	designated courts or authorities by ... by [642 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 .	designated courts <u>or authorities by ... by</u> [6x 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 . Timelines for trilogue
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:	<i>deleted</i>	<i>EP to check deletion</i>
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	<i>EP considers political</i>

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			Directive], and shall notify any changes thereto.	
Article 18(2a)				
217c		<u>2a. Member States shall communicate the lists of the national registers and databases referred to in the Annex to the 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.</u>		
Title IV				
218	Title IV PRE-PACK PROCEEDINGS	Title IV PRE-PACK PROCEEDINGS	Title IV PRE-PACK PROCEEDINGSMECHANISM	
Article 19				
220	Article 19 Pre-pack proceedings	Article 19 Pre-pack proceedings	Article 19 Pre-pack proceedingsmechanism	political
Article 19(1)				
221	1. Member States shall ensure that pre-pack proceedings are composed of the following two consecutive phases	1. <u>Member States shall introduce pre-pack proceedings for situations in which the debtor is likely to become insolvent in accordance with national law.</u> Member States shall ensure that	deleted	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		pre-pack proceedings are composed of the following two consecutive phases:		
<i>Article 19(1), point (a)</i>				
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;	<i>deleted</i>	<i>linked to "mechanism"</i>
<i>Article 19(1), point (b)</i>				
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.	<i>deleted</i>	<i>linked to "mechanism"</i>
<i>Article 19(2)</i>				
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, <i>including the rules laid down in this Title.</i>	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,	

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			the responsibilities and liability of the debtor and the debtor's directors and the remuneration of the monitor and the insolvency practitioner.	
Article 19a				
224a		<u>Article 19a</u> <u>Rights of workers</u>		political
Article 19a(1)				
224b		<u>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.</u>		linked to art. 3b and 68a
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	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	2. For the purposes of Article 5(1) of This Directive This Directive is without prejudice to Council Directive 2001/23/EC ¹ , the liquidation phase shall be considered to be	

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	<p>proceedings instituted with a view to the liquidation of the assets of the transferor under the supervision of a competent public authority.</p> <p>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).</p>	<p>proceedings instituted with a view to the liquidation of the assets of the transferor under the supervision of a competent public authority, <u>provided that the liquidation of the debtor's business as a going concern satisfies to the greatest extent possible the claims of the creditors.</u></p> <p>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).</p>	<p>bankruptcy or insolvency proceedings instituted with a view to the liquidation of the assets of the transferor under the supervision of a competent public authority. and national rules implementing it.</p> <p>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).</p>	
Article 20(2), second subparagraph				
228a			<p>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.</p>	<p>linked to 106 EP to check if 228 and 228a can be accepted if line 35a on the objective of the pre-pack is moved to the operative part COM will make compromise proposal</p>

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			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).	
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, 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 <i>in a situation of likelihood of insolvency likely to become insolvent</i> 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 <i>facilitates the seamless and effective</i> <u>is essential for the successful</u> roll-out of the pre-pack proceedings. The monitor <u>and the corresponding creditor</u> shall be heard <u>by the court</u> prior to the	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	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 <i>facilitates the seamless and effective</i> <u>that stay is essential for the successful</u> roll-out of the [pre-pack proceedings]. The monitor shall be heard prior to the decision on the

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		decision on the stay of individual enforcement actions.	decision on the stay of individual enforcement actions.	<p><u>Member States may derogate from paragraph 1 where they provide that a debtor can benefit from a stay of individual enforcement actions by requesting insolvency proceedings during which the debtor remains totally, or at least partially, in control of their assets and the day-to-day operation of their business.</u></p> <p>COM to make proposal; EP to check</p> <p>Text Origin: Council Mandate</p>
Article 23a, first paragraph				
249b			<p>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.</p>	<p><u>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.</u></p> <p><u>Member States may derogate from paragraph 1, if they provide that a debtor can benefit from a stay of the opening of insolvency proceeding that could result in liquidation either as part of a stay according to article 23 or by requesting insolvency</u></p>

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				<p><u>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.</u></p> <p>Council new proposal; EP to check</p>
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 <u>unless the monitor resigns or is unable to perform the required functions, such as in cases of serious illness or death.</u>	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.	Member States shall ensure that, when the liquidation phase is opened, the court appoints the monitor <u>starts when a decision on the opening of the insolvency proceedings</u> referred to in Article 22 as insolvency practitioner 20(1) is taken, in accordance with national law.
Article 27(1), first subparagraph b				
262c			1b. Without prejudice to other termination rights under national law, Member States 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				

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
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.	<i>deleted</i>	<i>linked to COM proposal on 262a and 262b Council to check</i>
<i>Article 27(2), first subparagraph</i>				
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, <u>subject to a notice period of at least three months prior to the assignment</u> , provided that one of the following conditions applies:	<i>deleted</i>	
<i>Article 27(2), first subparagraph, point (a)</i>				
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;	<i>deleted</i>	
<i>Article 27(2), first subparagraph, point (b)</i>				
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.	<i>deleted</i>	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
<i>Article 27(2), second subparagraph</i>				
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 <u>or to credit or financial services contracts</u> .	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.
<i>Article 28</i>				
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	
<i>Article 29</i>				
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	
<i>Article 29(1)</i>				
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	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	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	1. Member States shall ensure that, <u>if national law provides for</u> appeals against decisions of the court <u>or competent authority</u> relating to the authorisation or execution of the sale of the debtor's business or part thereof, <u>such appeals</u> may have suspensive effects only

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	the potential damages caused by the stay of the realisation of the sale.	the potential damages caused by the stay of the realisation of the sale.	security that is adequate to cover the potential damages caused by the stay of the realisation of the sale, in accordance with national law.	<p>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.</p> <p>COM compromise proposal:</p> <p>Member States shall ensure that where national law provides for appeals against decisions of the court or the competent authority relating to the authorisation or execution of the sale of the debtor's business or parts thereof, such appeals do not have suspensive effects unless adequate measures are taken to cover the potential damages caused by an unjustified stay of the realisation of the sale, such as the requirement of a security to be provided by the appellant or the liability of the appellant for such damages.</p> <p>EP/Council to check</p>
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	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	<i>deleted</i>	<i>EP flexibility dependent on para 1</i>

	CLEAN Commission Proposal	VS.EC EP Mandate	VSEEC Council Mandate	VS.EC Draft Agreement
	security if it considers such exemption appropriate in light of the circumstances of the given case.	security if it considers such exemption appropriate in light of the circumstances of the given case.		
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 offer does not satisfy the best-interest-of-creditors test.	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 <u>requirement to obtain a market valuation of the business and the</u> duty for the monitor and the insolvency practitioner to reject the offer from the party closely related to the debtor if the offer does not satisfy the best-interest-of-creditors test.	2. Where the offer made by a party closely related to the debtor is the only existing offer, Member States shall <u>may</u> 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 offer does not satisfy the best-interest-of-creditors test.	2. Where the offer made by a party closely related to the debtor is <u>considered as the best</u> the only existing offer, Member States shall <u>may</u> 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 offer does not satisfy the best-interest-of-creditors test. Text Origin: Council Mandate
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 creditors that would otherwise have superior or equal claims;	(b) grantors of interim financing are entitled to receive payment with priority in the context of subsequent insolvency procedures in relation to other creditors that would otherwise have superior or equal claims;	<i>deleted</i>	(b) grantors of interim financing are entitled to receive payment with priority in the context of subsequent insolvency procedures in relation to other creditors that would otherwise have superior or equal <u>with unsecured ordinary</u> claims;

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
				Council/EP to check
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.	21. 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.	2. <u>Without prejudice to Article 34(3),</u> Member States shall ensure that no pre-emption rights are conceded <u>granted</u> to bidders. <u>Member States may provide that statutory pre-emption rights not affected by the insolvency of the debtor are maintained and are enforceable.</u> EP to check
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.	<i>deleted</i>	EP to check deletion
Article 34(1), second subparagraph				

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
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.	<i>deleted</i>	<i>EP to check deletion</i>
<i>Article 58(1)</i>				
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. <i>EP counterproposal: Member States shall ensure that a creditors' committee is established after the opening of insolvency proceedings 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.</i> <i>Council to check this wording in conjunction with Article 3a.</i> <i>Text Origin: Council Mandate</i>

	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 reflects 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.	<p>COM to provide compromise proposal based on the latest EP proposal compromise proposal</p> <p>EP proposal:</p> <p>Member States shall ensure that the composition of the creditors' committee fairly reflects, as far as possible, the different interests of creditors.</p> <p>When workers are among the creditors, Member States shall ensure that those workers or their representatives are eligible for appointment to the creditors' committee.</p> <p>Member States may provide that further persons and entities other than creditors are eligible for appointment to the creditors' committee only if they represent the interests of a group of creditors.</p>
Article 59(3a)				
451a		<u><i>3a. When workers are among the creditors, Member States shall ensure that the creditors'</i></u>		To be covered by a COM proposal in 451.

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
		<u><i>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.</i></u>		
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.	<i>deleted</i>	Council to check "in accordance with national law" addition to the "interested party" EP ok
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, <u><i>conflicts of interest</i></u> , 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.	2. Grounds for removal <u><i>as referred to in paragraph 1</i></u> shall at least include fraudulent <u><i>an intentional</i></u> or grossly negligent conduct, wilful misconduct, or breach of fiduciary <u><i>of</i></u> duties <u><i>of a serious nature</i></u> with respect to the <u><i>interests of the general body of creditors, such as situations of conflict of</i></u> interests. Council to check EP ok

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
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;	(a) the right to hear <u>and be heard and to consult and be consulted by</u> the insolvency practitioner at any time <u>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;</u> Council to check
Article 68(3), point (a)				
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... [42 months from the entry into force of this Directive];	(a) be drawn up and submitted to the Commission in an official language of the <u>institutions of the</u> Union by {6 months after the deadline for transposition of this Directive...} <u>[x months from the entry into force of this Directive];</u> Council and EP agree in principle that it is 6 months after the transposition. Text Origin: Council Mandate
Article 68a				
526a			Article 68a Emergency measures	political
Article 68a(1)				

	<small>CLEAN</small> Commission Proposal	<small>VS.EC</small> EP Mandate	<small>VSEEC</small> Council Mandate	<small>VS.EC</small> Draft Agreement
526b			<p>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 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.</p>	
Article 68a(2)				
526c			<p>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.</p>	
Article 68a(3), first subparagraph				
526d			<p>3. The derogation referred to in paragraph 1 shall be notified to the Commission within a month from its entry into force.</p>	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
Article 68a(3), second subparagraph				
526e			When notifying the Commission in accordance with the first subparagraph, the Member States shall list the provisions of 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	

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			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 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 69a				
529a		Article 69a Supporting measures		
Article 69a(1)				

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
529b		<u>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.</u>		
Article 70, first paragraph				
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] <u>and every 5 years thereafter</u> , the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application and impact <u>and its effectiveness in reaching the objectives</u> of this Directive. <u>The report may be accompanied, if appropriate, by a legislative proposal.</u>	By [5 years after the deadline for transposition of this Directive] <u>5 years after the deadline for transposition of this Directive</u>], 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 No later than (XXXXXX) [and every five years after the deadline for transposition of this Directive 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. <u>On the basis of that assessment, the Commission shall submit, if appropriate, a legislative proposal.</u>
Article 71(1), first subparagraph				
533	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this	political

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
	Directive by [2 years from entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.	Directive by 2 years <u>12 months</u> from entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.	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.	
Article 71(1), second subparagraph a				
534a			1a. Member States that encounter particular difficulties 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].	political
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	<u><i>1b. 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</i></u>

	CLEAN Commission Proposal	VS.EC EP Mandate	VS.EC Council Mandate	VS.EC Draft Agreement
			administrative provisions necessary to comply with this Directive referred to in the first subparagraph of paragraph 1.	<u>with this Directive referred to in the first subparagraph of paragraph 1.</u> EP to check