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Subject: Proposal for a Directive of the European Parliament and of the Council
harmonising certain aspects of insolvency law
- Presidency draft compromise proposal on Title Va and VI

Delegations will find in Annex the Presidency compromise proposal on Titles Va and VI of the above mentioned directive.

Changes in comparison to the Commission's proposal are indicated in **bold** or ~~strikethrough~~, while changes in comparison with the last version of the compromise text are indicated **in bold and underline** or ~~strikethrough~~.

[...]

- (k) ‘unlimited liability ~~microenterprise~~ **debtor**’ means a ~~microenterprise~~ **debtor** with or without separate legal personality and without limited liability protection of any of its founders, owners or members;
- (l) ‘entrepreneur’ means an entrepreneur as defined in Article 2(1), point (9) of Directive (EU) 2019/1023;
- (m) ‘full discharge of debt’ means the situation in which either: i) the enforcement of outstanding dischargeable debts against entrepreneurs or **natural persons who are equity holders** ~~against those individuals who are founders, owners or members of an unlimited liability ~~microenterprise~~ **debtor**, and are personally liable for the debts of the ~~microenterprise~~ **debtor**, is precluded;~~ or ii) outstanding dischargeable debts as such are cancelled, as part of ~~simplified winding-up~~ **insolvency** proceedings **which could include a realisation of assets or a repayment plan or both**;

[...]

Title Va

Access to discharge of debt

Article 38

Access to discharge

Member States shall ensure that insolvent natural persons who are equity holders personally liable for the debts of an debtor with unlimited liability have access to at least one procedure that can lead to a full discharge of debt in accordance with the Directive (EU) 2019/1023.

Article 39

Relation to insolvency proceedings of the debtor

Member States shall ensure that access to a full discharge of debt in accordance with Directive (EU) 2019/1023 is provided even in cases where no insolvency proceedings can be opened against the debtor in accordance with national law over the debtor, in respect of the debts for which the entrepreneur or natural person equity holder is liable, on the ground that that the debtor does not have sufficient assets to cover the costs of insolvency proceedings.

Article 40

Personal guarantees

Member States shall ensure that where a family member of a debtor, who is an entrepreneur or a natural person equity holder subject to a debt-discharge procedure in accordance with the Directive (EU) 2019/1023, is insolvent or subject to individual enforcement proceedings because that family member provided a personal guarantee for the business needs of the debtor, the family member has access to a full discharge of debt in accordance with the Directive (EU) 2019/1023 either through a separate debt discharge procedure or as a consolidated part of the debt discharge procedure concerning the entrepreneur or natural person equity holder.

~~Title VI~~

~~WINDING UP OF INSOLVENT MICROENTERPRISES~~

~~Chapter 1~~

~~General rules~~

Article 38

~~Rules on winding up of microenterprises~~

- ~~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.~~
- ~~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.~~
- ~~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.~~
- ~~4. Member States shall ensure that the costs of the simplified winding up proceedings are covered in the situations set out in paragraph 3.~~

Article 39

Insolvency practitioner

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:

- (a) — the debtor, a creditor or a group of creditors requests such an appointment;
- (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.

Article 40

Means of communication

Member States shall ensure that in simplified winding-up proceedings all communications between the competent authority and, where 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

Opening of simplified winding up proceedings

Article 41

Request for the opening of simplified winding up proceedings

1. ~~Member States shall ensure that insolvent microenterprises can submit a request for the opening of simplified winding up proceedings to a competent authority.~~
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 competent authority. The microenterprise concerned shall be given the opportunity to respond to the request, by contesting or consenting to it.~~
3. ~~Member States shall ensure that microenterprises can submit a request for the opening of simplified winding up proceedings using a standard form.~~
4. ~~The standard form referred to in paragraph 3 shall allow for the inclusion, among others, of the following information:~~
 - (a) ~~if the microenterprise is a legal person, the debtor's name, registration number, registered office or, if different, postal address;~~
 - (b) ~~if the microenterprise is an entrepreneur, the debtor's name, registration number, if any, and postal address or, where the address is protected, the debtor's place and date of birth;~~
 - (c) ~~a list of the assets of the microenterprise;~~
 - (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,~~

- (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;~~
- (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.~~

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)~~
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.~~
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 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

~~Decision on the request for the opening of simplified winding-up proceedings~~

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.~~

- ~~2. The opening of simplified winding up proceedings may be refused only if one or more of the following conditions is fulfilled:~~
- ~~(a) the debtor is not a microenterprise;~~
 - ~~(b) the debtor is not insolvent pursuant to Article 38(2) of this Directive;~~
 - ~~(c) the competent authority where the request was submitted has no jurisdiction over the case;~~
 - ~~(d) the Member State where the request was submitted has no international jurisdiction over the case.~~
- ~~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.~~

Article 43

Debtor in possession

- ~~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.~~
- ~~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.~~
- ~~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.~~

~~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:~~

~~(a) any decision of the debtor to that effect becomes subject to the approval of the competent authority, or~~

~~(b) the competent authority entrusts the right to manage and dispose of the assets of the debtor to a creditor.~~

Article 44

Stay of individual enforcement actions

~~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 and until the closure of that proceedings.~~

~~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:~~

~~(a) the enforcement is not likely to jeopardise the legitimate expectations of the general body of creditors and;~~

~~(b) the stay would unfairly prejudice the creditor of that claim.~~

Article 45

Publicity of the opening of simplified winding-up proceedings

1. Member States shall ensure that the information on the opening of simplified winding-up proceedings is published in the insolvency register referred to in Article 24 of Regulation (EU) 2015/848, as soon as possible after the opening.
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.

The notice shall include, in particular:

- (a) the list of claims against the debtor as indicated by the debtor;
- (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;
- (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.

Chapter 3

List of claims and establishment of the insolvency estate

Article 46

Lodgement and admission of claims

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:

- ~~(a) in its request for the opening of simplified winding-up proceedings;~~
- ~~(b) in its response to the request for the opening of such proceedings submitted by a creditor;~~
- ~~(c) in its submission pursuant to Article 41(7).~~

- ~~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.~~
- ~~3. Member States shall ensure that, in the absence of any objection or concern 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.~~
- ~~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.~~
- ~~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.~~

Article 47

Avoidance actions

Member States shall ensure that the rules on avoidance actions apply as follows in simplified winding-up proceedings:

- (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;~~
- (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;~~
- (c) ~~the competent authority may convert simplified winding-up proceedings into standard insolvency proceedings, where the 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

Establishment of the insolvency estate

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.~~
2. ~~The assets of the insolvency estate shall include assets in the possession of the debtor at the time of the opening 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.~~

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.~~

Chapter 4

~~Realisation of the assets and distribution of the proceeds~~

Article 49

~~Decision on the procedure to be used~~

1. ~~Member States shall ensure that in simplified winding-up proceedings once the insolvency estate has been established and the list of claims against the debtor has been determined, the competent authority:~~
- ~~(a) proceeds with the realisation of the assets and the distribution of the proceeds; or~~
 - ~~(b) takes a decision on the closure of the simplified winding-up proceedings without any realisation of the assets, in accordance with paragraph 2.~~
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:~~
- ~~(a) there are no assets in the insolvency estate;~~
 - ~~(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;~~
 - ~~(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).~~

~~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.~~

Article 50

~~Electronic auction systems for the sale of the assets of the debtor~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

~~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[†]~~

Article 51

Interconnection of the electronic auction systems

- ~~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 the national systems where offers may be directly submitted.~~
- ~~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:
 - ~~(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;~~~~

[†] ~~Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic 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).~~

- ~~(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;~~
- ~~(c) — the minimum set of information that shall be made accessible through the central platform;~~
- ~~(d) — the minimum criteria for the presentation of announced auction processes via the European e-Justice Portal;~~
- ~~(e) — the minimum criteria for the search of announced auction processes via the European e-Justice Portal;~~
- ~~(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;~~
- ~~(g) — the means and the technical conditions of availability of services provided by the system of interconnection;~~
- ~~(h) — the use of the European unique identifier referred to in Article 16(1) of Directive (EU) 2017/1132²;~~
- ~~(i) — specification of which personal data can be accessed;~~
- ~~(j) — data protection safeguards.~~

~~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].~~

² — 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

Article 52

Costs of establishing and interconnecting electronic auction systems

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.~~
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.~~

Article 53

Responsibilities of the Commission in connection with the processing of personal data in the system of interconnection of electronic auction platforms

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.~~
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.~~
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.~~
4. ~~With regard to the information from the 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

Sale of the assets by electronic auction

- ~~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](#).~~
- ~~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 auction, as well as on the requirements to participate therein.~~
- ~~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.~~
- ~~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.~~

Article 55

Decision on the closure of the simplified winding-up proceedings

- ~~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 weeks after the distribution of proceeds has been completed.~~
- ~~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.~~

Chapter 5

~~Discharge of entrepreneurs in simplified winding up proceedings~~

Article 56

Access to discharge

~~Member States shall 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 are fully discharged from their debts in accordance with Title III of Directive (EU) 2019/1023.~~

Article 57

Treatment of personal guarantees provided for business-related debts

~~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.~~

[...]

- (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 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.~~
- (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 extend their application also to small and medium sized enterprises that are not microenterprises.~~
- (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.~~

- (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 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.
- (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 electronic means should be used for all communications between the competent authority, and where relevant, the insolvency practitioner, and the parties to the proceedings.
- (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.
- (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 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.

- (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.
- (42) — Disputed claims should be dealt with in a way that does not 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.
- (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 likelihood of the successful recovery of assets and expected benefits to all creditors.
- (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.

- (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 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"³, 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.~~
- (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*.~~

[...]

³ ~~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 digital Commission, C(2022) 4388 final, p. 13.~~