



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.12.2004
COM(2004) 827 final

Proposal for a

COUNCIL REGULATION

amending the lists of insolvency proceedings, winding-up proceedings and liquidators in Annexes A, B and C to Regulation (EC) No 1346/2000 on insolvency proceedings

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL	
	<ul style="list-style-type: none">• Grounds for and objectives of the proposal <p>There is a need for amending the Annexes of Council Regulation (EC) No 1346/2000 on insolvency proceedings.</p>
	<ul style="list-style-type: none">• General context <p>Annex A to Council Regulation (EC) No 1346/2000 lists the insolvency proceedings referred to in Article 2(a) of the Regulation. Annex B lists the winding-up proceedings referred to in Article 2(c) of the Regulation. Annex C lists the liquidators referred to in Article 2(b).</p> <p>Annexes A, B and C to Council Regulation (EC) No 1346/2000 were amended by the 2003 Act of Accession so as to include the insolvency proceedings, the winding-up proceedings and the liquidators from the acceding States.</p> <p>Belgium, Spain, Italy, Latvia, Lithuania, Malta, Hungary, Austria, Poland, Portugal and the United Kingdom have notified the Commission of amendments to the lists set out in Annexes A, B and C.</p>
	<ul style="list-style-type: none">• Existing provisions in the area of the proposal <p>Regulation (EC) No 1346/2000 should therefore be amended accordingly by this Proposal.</p>
	<ul style="list-style-type: none">• Consistency with other policies <p>This Regulation is consistent with other Community policies.</p>
2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT	
	<ul style="list-style-type: none">• Consultation of interested parties
	Not relevant
	<ul style="list-style-type: none">• Collection and use of expertise
	There was no need for external expertise.
	<ul style="list-style-type: none">• Impact assessment <p>Amending the Regulation may have a positive effect on the re-organisation of businesses.</p> <p>It is likely to have a positive or neutral impact on employment.</p>

	It is likely to have a positive or neutral impact on environment.
3) LEGAL ELEMENTS OF THE PROPOSAL	
	<ul style="list-style-type: none"> • Summary of the proposed action <p>Amending the Annexes of Regulation (EC) No 1346/2000 in order to take account of amendments to the domestic insolvency law of Member States</p>
	<ul style="list-style-type: none"> • Legal basis <p>Article 45 of Regulation (EC) No 1346/2000</p>
	<ul style="list-style-type: none"> • Subsidiarity principle <p>The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.</p>
	<ul style="list-style-type: none"> • Proportionality principle <p>The proposal complies with the proportionality principle for the following reason(s).</p>
	The Commission Proposal replaces Annexes A, B and C to Council Regulation (EC) No 1346/2000 with new Annexes A, B and C taking into account the information notified by Member States.
	The Regulation is directly applicable in the Member States and it does not require any implementation measures. It is published to the Official Journal of the European Union, therefore its contents is accessible to all interested parties.
	<ul style="list-style-type: none"> • Choice of instruments
	Proposed instruments: regulation.
	<p>Other means would not be adequate for the following reason(s).</p> <p>By virtue of Article 45 of Council Regulation (EC) No 1346/2000, the Annexes to the Regulation can only be amended by the Council on the initiative of Member States or on a proposal by the Commission.</p>
4) BUDGET IMPLICATIONS	
	None
5) ADDITIONAL INFORMATION	
	<ul style="list-style-type: none"> • Simplification
	The proposal provides for simplification of administrative procedures for public authorities (EU or national), simplification of administrative procedures for public private parties.

	Courts of the Member States will be informed timeously about insolvency proceedings that are to be recognised.
	Creditors, debtors and insolvency practitioners will be informed about insolvency proceedings under the scope of the Regulation.
	<ul style="list-style-type: none">• Review/revision/sunset clause

Proposal for a

COUNCIL REGULATION

amending the lists of insolvency proceedings, winding-up proceedings and liquidators in Annexes A, B and C to Regulation (EC) No 1346/2000 on insolvency proceedings

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings⁽¹⁾, and in particular Article 45 thereof,

Having regard to the proposal from the Commission⁽²⁾,

Whereas:

- (1) The Annexes to Regulation (EC) No 1346/2000 list the designations given in the national legislation of the Member States to the proceedings and liquidators to which that Regulation applies. Annex A to Regulation (EC) No 1346/2000 lists the insolvency proceedings referred to in point (a) of Article 2 of that Regulation. Annex B lists the winding-up proceedings referred to in point (c) of Article 2 and Annex C lists the liquidators referred to in point (b) of Article 2 of that Regulation .
- (2) Annexes A, B and C to Regulation (EC) No 1346/2000 were amended by the 2003 Act of Accession so as to include the insolvency proceedings, the winding-up proceedings and the liquidators of the acceding States.
- (3) Belgium, Spain, Italy, Latvia, Lithuania, Malta, Hungary, Austria, Poland, Portugal and the United Kingdom have notified the Commission, pursuant to Article 45 of Regulation (EC) No 1346/2000, of amendments to the lists set out in Annexes A, B and C to that Regulation.
- (4) Regulation (EC) No 1346/2000 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

¹ OJ L 160, 30.6.2000, p 1. Regulation as amended by the 2003 Act of Accession.

² OJ C , , p. .

Article 1

Regulation (EC) No 1346/2000 is amended as follows:

- (1) Annex A is replaced by the text set out in Annex A to this Regulation;
- (2) Annex B is replaced by the text set out in Annex B to this Regulation;
- (3) Annex C is replaced by the text set out in Annex C to this Regulation.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

ANNEX A
Insolvency proceedings referred to in point (a) of Article 2

BELGIË/BELGIQUE

- Het faillissement / La faillite
- Het gerechtelijk akkoord / Le concordat judiciaire
- De collectieve schuldenregeling / Le règlement collectif de dettes
- De vrijwillige vereffening / La liquidation volontaire
- De gerechtelijke vereffening / La liquidation judiciaire
- De voorlopige ontneming van beheer, bepaald in artikel 8 van de faillissementswet / Le dessaisissement provisoire, visé à l'article 8 de la loi sur les faillites

ČESKÁ REPUBLIKA

- Konkurs
- Nucené vyrovnání
- Vyrovnání

DEUTSCHLAND

- Das Konkursverfahren
- Das gerichtliche Vergleichsverfahren
- Das Gesamtvollstreckungsverfahren
- Das Insolvenzverfahren

EESTI

- Pankrotimenetus

ΕΛΛΑΣ

- Πτώχευση
- Η ειδική εκκαθάριση
- Η προσωρινή διαχείριση εταιρείας. Η διοίκηση και η διαχείριση των πιστωτών
- Η υπαγωγή επιχείρησης υπό επίτροπο με σκοπό τη σύναψη συμβιβασμού με τους πιστωτές

ESPAÑA

- Concurso

FRANCE

- Liquidation judiciaire
- Redressement judiciaire avec nomination d'un administrateur

IRELAND

- Compulsory winding up by the court
- Bankruptcy
- The administration in bankruptcy of the estate of persons dying insolvent
- Winding-up in bankruptcy of partnerships
- Creditors' voluntary winding up (with confirmation of a Court)
- Arrangements under the control of the court which involve the vesting of all or part of the property of the debtor in the Official Assignee for realisation and distribution
- Company examinership

ITALIA

- Fallimento
- Concordato preventivo
- Liquidazione coatta amministrativa
- Amministrazione straordinaria

ΚΥΠΡΟΣ

- Υποχρεωτική εκκαθάριση από το Δικαστήριο / (Compulsory winding up by the court)
- Εκούσια εκκαθάριση από πιστωτές κατόπιν Δικαστικού Διατάγματος / (Creditor's voluntary winding up by court order)
- Εκούσια εκκαθάριση από μέλη / (Company's (members) voluntary winding up)
- Εκκαθάριση με την εποπτεία του Δικαστηρίου / (Winding up subject to the supervision of the court)
- Πτώχευση κατόπιν Δικαστικού Διατάγματος / (Bankruptcy by court order)

- Διαχείριση της περιουσίας προσώπων που απεβίωσαν αφερέγγυα / (The administration of the estate of persons dying insolvent)

LATVIJA

- Bankrots
- Izlīgums
- Sanācija

LIETUVA

- įmonės restruktūrizavimo byla
- įmonės bankroto byla
- įmonės bankroto procesas ne teismo tvarka

LUXEMBOURG

- Faillite
- Gestion contrôlée
- Concordat préventif de faillite (par abandon d'actif)
- Régime spécial de liquidation du notariat

MAGYARORSZÁG

- Csődeljárás
- Felszámolási eljárás

MALTA

- Xoljiment
- Amministrazzjoni
- Stralc volontarju mill-membri jew mill-kredituri
- Stralc mill-Qorti
- Falliment f'kaz ta' negozzjant

NEDERLAND

- Het faillissement
- De surséance van betaling

- De schuldsaneringsregeling natuurlijke personen

ÖSTERREICH

- Das Konkursverfahren
- Das Ausgleichsverfahren

POLSKA

- Postępowanie upadłościowe
- Postępowanie układowe
- Upadłość obejmująca likwidację
- Upadłość z możliwością zawarcia układu

PORTUGAL

- O processo de insolvência
- O processo de falência
- Os processos especiais de recuperação de empresa, ou seja:
 - A concordata
 - A reconstituição empresarial
 - A reestruturação financeira
 - A gestão controlada

SLOVENIJA

- Stečajni postopek
- Skrajšani stečajni postopek
- Postopek prisilne poravnave
- Prisilna poravnava v stečaju
- Likvidacija pravne osebe pred sodiščem

SLOVENSKO

- Konkurzné konanie
- Nútené vyrovnanie
- Vyrovnanie

SUOMI/FINLAND

- Konkurssi / konkurs
- Yrityssaneeraus / företagssanering

SVERIGE

- Konkurs
- Företagsrekonstruktion

UNITED KINGDOM

- Winding up by or subject to the supervision of the court
- Creditors' voluntary winding up (with confirmation by the court)
- Administration (including appointments under paragraph 14 and 22 of Schedule B1 to the Insolvency Act 1986)
- Voluntary arrangements under insolvency legislation
- Bankruptcy or sequestration

ANNEX B

Winding-up proceedings referred to in point (c) of Article 2

BELGIË/BELGIQUE

- Het faillissement / La faillite
- De vrijwillige vereffening / La liquidation volontaire
- De gerechtelijke vereffening / La liquidation judiciaire

ČESKÁ REPUBLIKA

- Konkurs
- Nucené vyrovnání

DEUTSCHLAND

- Das Konkursverfahren
- Das Gesamtvollstreckungsverfahren
- Das Insolvenzverfahren

EESTI

- Pankrotimenetus

ΕΛΛΑΣ

- Πτώχευση
- Η ειδική εκκαθάριση

ESPAÑA

- Concurso

FRANCE

- Liquidation judiciaire

IRELAND

- Compulsory winding up
- Bankruptcy

- The administration in bankruptcy of the estate of persons dying insolvent
- Winding-up in bankruptcy of partnerships
- Creditors' voluntary winding up (with confirmation of a court)
- Arrangements under the control of the court which involve the vesting of all or part of the property of the debtor in the Official Assignee for realisation and distribution

ITALIA

- Fallimento
- Liquidazione coatta amministrativa
- Concordato preventivo con cessione dei beni

ΚΥΠΡΟΣ

- Υποχρεωτική εκκαθάριση από το Δικαστήριο / (Compulsory winding up by the court)
- Εκκαθάριση με την εποπτεία του Δικαστηρίου / (Winding up subject to the supervision of the court)
- Εκούσια εκκαθάριση από πιστωτές (με την επικύρωση του Δικαστηρίου) / (Creditor's voluntary winding up (with confirmation by the court))
- Πτώχευση / (Bankruptcy)
- Διαχείριση της περιουσίας προσώπων που απεβίωσαν αφερέγγυα / (The administration of the estate of persons dying insolvent)

LATVIJA

- Bankrots

LIETUVA

- īmonės bankroto byla
- īmonės bankroto procesas ne teismo tvarka

LUXEMBOURG

- Faillite
- Régime spécial de liquidation du notariat

MAGYARORSZÁG

- Felszámolási eljárás

MALTA

- Stralc volontarju
- Stralc mill-Qorti
- Falliment inkluz il-hrug ta' mandat ta' qbid mill-Kuratur f'kas ta' negozzjant fallut

NEDERLAND

- Het faillissement
- De schuldsaneringsregeling natuurlijke personen

ÖSTERREICH

- Das Konkursverfahren

POLSKA

- Postępowanie upadłościowe
- Upadłość obejmująca likwidację

PORTUGAL

- O processo de insolvência
- O processo de falência

SLOVENIJA

- Stečajni postopek
- Skrajšani stečajni postopek
- Likvidacija pravne osebe pred sodiščem

SLOVENSKO

- Konkurzné konanie
- Nútené vyrovnanie
- Vyrovnanie

SUOMI / FINLAND

- Konkurssi / konkurs

SVERIGE

- Konkurs

UNITED KINGDOM

- Winding up by or subject to the supervision of the court (including appointments under paragraph 14 and 22 of Schedule B1 to the Insolvency Act 1986)
- Creditors' voluntary winding up (with confirmation by the court)
- Bankruptcy or sequestration

ANNEX C

Liquidators referred to in point (b) of Article 2

BELGIË/BELGIQUE

- De curator / Le curateur
- De commissaris inzake opschorting / Le commissaire au sursis
- De schuldbemiddelaar / Le médiateur de dettes
- De vereffenaar / Le liquidateur
- De voorlopig bewindvoerder / L'administrateur provisoire

ČESKÁ REPUBLIKA

- Správce podstaty
- Předběžný správce
- Vyrovnací správce
- Zvláštní správce
- Zástupce správce

DEUTSCHLAND

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

EESTI

- Pankrotihaldur
- Ajutine pankrotihaldur
- Usaldusisik

ΕΛΛΑΣ

- Ο σὺνδικος
- Ο προσωρινός διαχειριστής. Η διοικούσα επιτροπή των πιστωτών
- Ο ειδικός εκκαθαριστής
- Ο επίτροπος

ESPAÑA

- Administradores concursales

FRANCE

- Représentant des créanciers
- Mandataire liquidateur
- Administrateur judiciaire
- Commissaire à l'exécution de plan

IRELAND

- Liquidator
- Official Assignee
- Trustee in bankruptcy
- Provisional Liquidator
- Examiner

ITALIA

- Curatore
- Commissario
- Liquidatore giudiziale

ΚΥΠΡΟΣ

- Εκκαθαριστής και Προσωρινός Εκκαθαριστής / (Liquidator and Provisional liquidator)
- Επίσημος Παραλήπτης / (Official Receiver)
- Διαχειριστής της Πτώχευσης / (Trustee in bankruptcy)
- Εξεταστής / (Examiner)

LATVIJA

- Maksātnespējas procesa administrators

LIETUVA

- Bankrutuojančių įmonių administratorius
- Restruktūrizuojamų įmonių administratorius

LUXEMBOURG

- Le curateur
- Le commissaire
- Le liquidateur
- Le conseil de gérance de la section d'assainissement du notariat

MAGYARORSZÁG

- Vagyonfelügyelő
- Felszámoló

MALTA

- Amministratur Provizorju
- Recevitur Ufficjali
- Stralcjatarju
- Manager specjali
- Kuraturi f'kas ta' proceduri ta' falliment

NEDERLAND

- De curator in het faillissement
- De bewindvoerder in de surséance van betaling
- De bewindvoerder in de schuldsaneringsregeling natuurlijke personen

ÖSTERREICH

- Masseverwalter
- Ausgleichsverwalter
- Sachverwalter

- Treuhänder
- Besondere Verwalter
- Konkursgericht

POLSKA

- Syndyk
- Nadzorca sądowy
- Zarządca

PORTUGAL

- Administrador da insolvência
- Gestor judicial
- Liquidatário judicial
- Comissão de credores

SLOVENIJA

- Poravnalni senat (senat treh sodnikov)
- Upravitelj prisilne poravnave
- Stečajni senat (senat treh sodnikov)
- Stečajni upravitelj
- Upniški odbor
- Likvidacijski senat (kot stečajni senat, če sodišče ne odloči drugače)
- Likvidacijski upravitelj (kot stečajni upravitelj, če sodišče ne odloči drugače)

SLOVENSKO

- Predbežný správca
- Konkurzný správca
- Vyrovnací správca
- Osobitný správca

SUOMI / FINLAND

- Pesänhoitaja//boförvaltare
- Selvittäjä//utredare

SVERIGE

- Förvaltare
- God man
- Rekonstruktör

UNITED KINGDOM

- Liquidator
- Supervisor of a voluntary arrangement
- Administrator
- Official Receiver
- Trustee
- Provisional Liquidator
- Judicial factor