European Commission - Press release

Company Law: Commission proposes new rules to help companies move across borders and find online solutions

Brussels, 25 April 2018

Today, the European Commission is proposing new company law rules to make it easier for companies to merge, divide or move within the Single Market.

The new rules will also ensure that employees' rights are well protected and tax abuse is prevented. The rules will stimulate the growth potential of European companies by digitalising the process of setting-up and running a business

First Vice-President Frans **Timmermans** said: *"In our thriving EU Single Market, companies have the freedom to move and grow. But this needs to happen in a fair way. Today's proposal puts in place clear procedures for companies, with strong safeguards to protect employees' rights and, for the first time, to prevent artificial arrangements aiming at tax avoidance and other abuses".*

Commissioner for Justice, Consumers & Gender Equality policy, Vera **Jourovà** said: *"Too often, European companies are prevented from looking for business opportunities abroad. I want to change this and modernise the company law rules. First, I want more online solutions for European businesses so that they cut costs and save time. Second, I want to offer the honest entrepreneurs the choice of where to do business and how to grow or reorganise their businesses."*

Harmonised rules on moving, merging and dividing companies with strong safeguards against abuse

The proposal sets out common procedures at the EU level on how a company can move from one EU country to another, merge or divide into two or more new entities across borders.

In line with the landmark judgement from the European Court of Justice (see MEMO), companies will be able to move their seat from one Member State to another following a simplified procedure.The new rules for cross-border conversions and divisions will now also include specific measures that will help national authorities fight against abuse. Transfers of this kind will include effective safeguards against abusive arrangements to circumvent tax rules, undermine workers' rights or jeopardising creditors' or minority shareholders' interests. Should ever this happen, the operation will be stopped by the Member State of departure even before the move can take place.

Currently, national rules differ greatly between Member States or impose excessive administrative hurdles. This discourages businesses from pursuing new opportunities for fear of too much red tape. It also means that when companies move, employees', creditors', and minority shareholders' interests are not adequately protected.

The new rules are part of the Commission's push for a fairer Single Market. They complement recent initiatives to strengthen the rules on posted workers and the fight against tax evasion and fraud as well as the Commission's proposal on a European Labour Authority. At the same time, the new rules will enable businesses to move or reorganise without unnecessary legal complexities and at a lower cost throughout the Single Market. The Commission estimates cost savings for companies of €12,000 – €19,000 per operation and a total of €176 – €280 million over 5 years.

Creating companies online

There are currently **only 17 Member States that provide a fully online** procedure for registering companies. Under the new rules, in all Member States, companies will be able to register, set up new branches or file documents to the business register online. Going digital makes the process of setting up a business more efficient and cost effective:

- online registration takes on average **half of the time** and can be up to **3 times cheaper** than traditional paper-based formats;
- savings for online registration and filing under the new rules are estimated to be **€42 – €84 million** per year for EU companies;
- the "once-only principle", included in today's proposal, replaces the need to submit the same information several times to different authorities in a company life-cycle;

- more information about companies will be available to all interested parties free of charge in the business registers.

To prevent fraud and abuse, national authorities will be able to rely on each other's information about disqualified directors. If they suspect fraud, authorities can still request the physical presence of company owners. They will also be able to require the involvement of bodies, such as notaries, in the process.

Background

In May 2015, the Commission unveiled a Digital Single Market Strategy to meet the challenges of the digital economy. In this Strategy, the Commission committed to achieving simpler and less burdensome rules for companies. This includes making digital solutions available throughout a company's lifecycle, in particular in relation to their registration and to the filing of company documents and information. The Commission also announced that it would assess the need to update rules on cross-border mergers and introduce rules on cross-border divisions.

In its 2017 Commission Work Programme, the Commission announced that it would put forward a company law initiative to facilitate the use of digital technologies throughout a company's lifecycle and cross-border mergers and divisions.

In October 2017, the Court of Justice clarified (C-106/16 *Polbud*) that freedom of establishment includes the right for a company to convert itself into a company governed by the law of another Member State, provided the requirements of the Member State of destination for its incorporation are satisfied (cross-border conversion).

For more information:

Directive as regards the use of digital tools and processes in company law

Directive as regards cross-border conversions, mergers and divisions

Q&A

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