

Company law adapted to the digital era : Council position agreed

Press contacts

Leonidas Karamountzos

Press officer

+32 2 281 85 46

+32 476 53 11 80

The EU is modernising company law rules in order to make them fit for purpose in the digital era. Member state ambassadors meeting today in Coreper agreed on new rules which will facilitate the use of digital tools and online processes in a company's contacts with public authorities throughout its lifecycle.

The new rules ensure that:

- companies are able to register limited liability companies, set up new branches and file documents for companies and their branches to the business register fully online;
- national model templates and information on national requirements are made available online and in a language broadly understood by the majority of cross-border users;
- rules on fees for online formalities are transparent and applied in a non-discriminatory manner;
- fees charged for the online registration of companies do not exceed the overall costs incurred by the member state concerned;
- the 'once-only' principle, whereby company would need to submit the same information to public authorities only once, applies;
- documents submitted by companies are stored and exchanged by national registers in machine-readable and searchable formats;
- more information about companies is made available to all interested parties free of charge in the business registers.

At the same time, the proposed directive sets the necessary safeguards against fraud and abuse in online procedures, including mandatory control of the identity and legal capacity of persons setting up the company and the possibility of requiring physical presence before a competent authority. It maintains the involvement of notaries or lawyers in company law procedures as long as these procedures can be completed fully online. It also foresees an exchange of information between member states on disqualified directors in order to detect fraud.

Next steps

Today's agreement opens the way for negotiations with the European Parliament for the rapid adoption of the proposed directive.

Background

According to figures provided by the Commission, there are around 24 million companies in the EU, out of which approximately 80% are limited liability companies. Around 98-99% of limited liability companies are small and medium-sized enterprises which would be most directly impacted by these improvements.

The directive does not harmonise substantive requirements for setting up companies or doing business across the EU. It is without prejudice to rules laid down in certain areas, such as the posting of workers, coordination of social security systems and road transport, to ensure that undertakings do not improperly or fraudulently take advantage of Treaty freedoms through letter-box companies which do not genuinely carry out substantial activities.

The proposed directive complements the existing rules on EU company law as codified in directive (EU) 2017/1132. It is one of the two proposals tabled by the Commission in April 2018 for the modernisation of EU company law. It also complements and builds upon the recently adopted Single Digital Gateway regulation, which covers the general registration of business activity via online means except for the constitution of limited liability companies.

The agreed text will appear on this page on 6 December 2018.

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