

Mergers and divisions: reporting and documentation requirements

2008/0182(COD) - 24/09/2008 - Legislative proposal

PURPOSE: to reduce administrative burdens imposed under the European Company Law Directives on public limited liability companies that deal with the modalities of domestic mergers and divisions.

PROPOSED ACT: Directive of the European Parliament and of the Council.

CONTENT: the European Council agreed, at its meeting on 8 and 9 March 2007, that administrative burdens on companies should be reduced by 25% by the year 2012 in order to enhance the competitiveness of companies in the Community. Company law has been identified as one area that contains a high number of information obligations for companies, some of which seem outdated or excessive.

The Commission adopted, in July 2007, a [communication](#) setting out its proposals for simplifying the areas of company law, accounting and auditing. Furthermore, in March 2007 and April 2008, two fast-track proposals were presented by the Commission in order to achieve a rapid reduction of administrative burdens through minor changes of the EU acquis. The [first](#) one was adopted in November 2007. The [second](#) proposal that takes up certain elements considered in the July 2007 Communication is still under consideration in the European Parliament and the Council.

The objective of the initiative is to complement these two measures and to contribute to enhancing the competitiveness of EU companies by reducing administrative burdens imposed under the European Company Law Directives where this can be done without major negative impact on other stakeholders. The initiative focuses on the Third Directive (Council Directive 78/855/EEC) concerning mergers of public limited liability companies and the Sixth Directive (Council Directive 82/891/EEC) concerning the division of public limited liability companies that deal with the modalities of domestic mergers and divisions.

The Third and the Sixth Directives currently contain a number of detailed reporting requirements that companies involved in a merger/division have to comply with and which impose considerable costs on them. In certain situations, the conjunction with the Second Directive can lead to a further increase in costs. Furthermore, the means provided for in the directives to inform shareholders about the details of the transactions were designed 30 years ago and therefore do not take into account today's technological possibilities. This leads to unnecessary costs and an excessive use of paper that can be avoided. Lastly, changes in other directives during the last years and in particular to the Second Directive in the area of creditor protection have led to certain inconsistencies between the different directives.

The current proposal aims notably at:

- reducing the reporting requirements of companies in the case of mergers and divisions, in particular where shareholders decide that certain reports are not needed and in the context of so-called "simplified" mergers and divisions between parent companies and their subsidiaries;
- avoiding double reporting where reporting requirements also result from other EU rules;
- introducing the possibility for companies to use the Internet and electronic mail in order to publish the draft terms of merger or division and to provide shareholders with the documentation required.

The Commission considers that the total potential burden savings of these measures is estimated to be as high as €172 million per year.