Company law: statute for a European private company

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Since the unanimity needed for an agreement was not reached, the Council noted that **further work is required** on the proposal aimed at establishing the legal form for the European private company (also called "*Societas Privata Europaea*" or "SPE").

The draft regulation was presented by the Commission on 27 June 2008 as part of a series of measures in the Small Business Act for Europe (SBA). It has been examined on a number of occasions in the Council's preparatory bodies and, last May, the Council took note of a progress report (doc. *9658/09*) during discussions concerning the implementation of the SBA.

The discussions focused on the text of the draft SPE Regulation as a whole. As a result of the substantial exchanges of views in the Working Party and written contributions by delegations, a number of amendments were introduced to several aspects of the proposal. They relate, in particular, to:

- taking into account the different national approaches to the term “shares”, which now covers both securities and parts;
- complementing the rules on expulsion and withdrawal of a member from the SPE;
- amending the provisions on consideration for shares;
- clarifying the provisions on the organisation of the SPE, in particular in relation to the role of the general assembly of members, the information rights of members and the representation of the SPE in relation to third parties;
- providing for a minority right to convene a general meeting;
- aligning the part on the procedure of the transfer of the registered office of the SPE to that of Regulation 2157/2001;
- introducing, in an Annex to the proposed Regulation, the list of national forms of private-limited liability companies.

In addition, as regards the important issue of the employee participation rights, the Presidency elaborated a comprehensive framework, with the aim of accommodating concerns related to a possible circumvention of any such rights provided for by national law through the establishment of SPEs, while, at the same time, preserving the flexibility of the instrument. This framework provides that, where certain conditions are fulfilled, SPEs should start negotiations with the employee representatives on arrangements for employee participation in the SPE.

The matter of employee participation, as well as several other important aspects of the proposal, will need to be further discussed in order to reach an agreement.