

Company law: annual accounts of micro-entities

2009/0035(COD) - 12/09/2011 - Council position

The Council broadly agrees with the spirit of the European Parliament's amendments and took extensive account of them when drawing up its position at first reading. Furthermore, in order to specify the principles set out in the European Parliament's position, the Council included a number of detailed provisions in view of facilitating the transposition and applicability of the Directive in the Member States.

Parliament expressed broad support for the Commission proposal and adopted five amendments to it. Parliament's main amendments included in the Council's position at first reading are the following:

a) Maintenance of the obligation to keep records showing the company's business transactions and financial situation: the Council fully supports the European Parliament's view that Member States should remain obliged to maintain a certain level of accounting obligations in order to help micro-entities to structure their finances and provide information for national authorities and, if necessary, for financial institutions.

The Council maintains a certain level of accounting obligations by modifying the concept of the Commission proposal. It introduces a variety of optional exemptions from parts of the 4th Company Law Directive instead of a complete exemption of micro-entities from the scope of the Directive. As a result Member States:

- will be free to allow their micro-entities to draw up a very simplified balance sheet and profit and loss account with almost no disclosures;
- will also have the option of replacing the current publication regime by a simple obligation for micro-entities to file the balance sheet information with one competent authority designated by the Member State concerned. If the designated competent authority is not the business register, the information will have to be transmitted to that register by the competent authority.

The conceptual change introduced by the Council aims at making clear which are the specific obligations under the 4th Company Law Directive maintained for micro-entities.

b) Member States' discretion in the implementation of the Directive: Parliament had emphasised that: (i) as the size criteria for the definition of micro-entities will lead to significant differences among Member States as regards the number of enterprises considered as micro-entities and (ii) as micro-entities usually have no cross-border activity and thus no impact on the functioning of the internal market, harmonisation by means of this Directive would not be justified.

The Council fully agrees with the European Parliament that any harmonisation is excluded from the scope of this Directive and Member States should transpose it in the way that they consider most appropriate for their national situations.

The Council also introduced additional changes: included in the Council's position at first reading

- **consequences of the Lisbon Treaty:** the Council's position at first reading refers to the Treaty on the Functioning of the European Union, and in particular Article 50(1) thereof and to the ordinary legislative procedure;
- **the definition of micro-entities:** the European Parliament's position at first reading follows the Commission's proposal as regards the following definition of micro-entities. The Council's position at first reading lowered two of the size criteria (balance sheet total: **EUR 250 000**; net turnover:

EUR 500 000) in order to avoid the situation where the vast majority of companies would be covered by the category of micro-entities;

- **transposition:** a reference to correlation tables has been included in the recitals and the one in the operative provisions has been deleted.

The Council looks forward to constructive discussions with the European Parliament at second reading with a view to the early adoption of the Directive.